NOTIFICATION.

No. RL. 773—Legis. 30-49-1, dated Bangalore, 28—29th November 1949.

Ordered that the accompanying Insurance (Amendment) Bill, 1949 (Bill No. 47 of 1949), published in the Gazette of India, Extraordinary, dated November 8, 1949, be republished in *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE).

NOTIFICATION.

New Delhi, the 8th November, 1949.

No. F. 154-I/49-A.—Under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business, the Governor-General has been pleased to order the publication in the Gazette of India of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and the Statement of Objects and Reasons are accordingly published for general information:—

A BILL No. 47 OF 1949.

A Bill further to amend the Insurance Act, 1938.

WHEREAS it is expedient further to amend the Insurance Act, 1938 (IV of 1938), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(*1*) This Act may be called the Insurance (Amendment) Act, 1949.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, and different dates may be appointed for different provisions of this Act.

2. Amendment of section 1, Act IV of 1938.—For sub-section (*2*) of section 1 of the Insurance Act, 1938 (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely :—

"(*2*) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act."

3. Amendment of section 2, Act IV of 1938.—In section 2 of the said Act,—

(*1*) for clause (*3*), the following clause shall be substituted, namely :—

'(*3*) "approved securities" means—

(*i*) Government securities and other securities charged on the revenues of the Central Government or of a Provincial Government, or guaranteed fully as regards principal and interest by the Central Government, any Provincial Government, the Secretary of State in Council or the Secretary of State ;

(*ii*) debentures or other securities for money issued under the authority of any Central Act or Act of a Legislature established in a Province by or on behalf of a port trust or municipal corporation or city improvement trust in any Presidency-town ;

(*iii*) shares of a corporation established by law and guaranteed fully by the Central Government or a Provincial Government as to the repayment of the principal and the payment of dividend ;

(*iv*) securities issued or guaranteed fully as regards principal and interest by the Government of any Acceding State or other Indian State and specified as approved securities for the purposes of this Act by the Central Government by notification in the official Gazette ; and

(*v*) subject to the limitations contained in the proviso hereto, securities guaranteed fully as regards principal and interest by a Provincial Government in Pakistan or charged on the revenues of any part of that Dominion, and debentures or other securities for money issued by or on behalf of the trustees of the port of Karachi :

Provided that securities or debentures specified in item (*v*) shall be recognised as approved securities only for such purposes and for such period and subject to such conditions as may be prescribed.';

(*2*) for clause (*4*), the following clause shall be substituted, namely :—

'(*4*) "auditor" means a person qualified under the Chartered Accountants Act, 1949 (XXXVIII of 1949) to act as an auditor of companies ;';

(3) after clause (4), the following clause shall be inserted, namely:—

'(4A) "banking company" and "company" shall have the meanings respectively assigned to them in clauses (c) and (d) of sub-section (1) of section 5 of the Banking Companies Act, 1949 (X of 1949);';

(4) after clause (5), the following clauses shall be inserted, namely:—

'(5A) "chief agent" means a person who, not being a salaried employee of an insurer, in consideration of any commission—

(i) performs any administrative and organising functions for the insurer, and

(ii) procures life insurance business for the insurer by employing or causing to be employed insurance agents on behalf of the insurer.

(5B) "Controller-General of Insurance" or "Controller-General" means the officer appointed by the Central Government to perform the duties of the Controller-General of Insurance under this Act;';

(5) after clause (6), the following clauses shall be inserted, namely:—

'(6A) "fire insurance business" means the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss by or incidental to fire or other occurrence customarily included among the risks insured against in fire insurance policies;

(6B) "general insurance business" means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them;';

(6) for clause (7), the following clause shall be substituted, namely:—

'(7) "Government security" means a Government security as defined in the Public Debt Act, 1944 (XVIII of 1944);';

(7) in clause (9), for the words "but does not include an insurance agent licensed under section 42" the words "but does not include a principal agent, chief agent, special agent, or an insurance agent" shall be substituted;

(8) in clause (10), the following words shall be added at the end, namely:—

"including business relating to the continuance, renewal or revival of policies of insurance;";

(*9*) after clause (*10*), the following clause shall be inserted, namely:—

(*10A*) "investment company" means a company whose principal business is the acquisition of shares, stocks, debentures or other securities;';

(*10*) for clause (*11*), the following clause shall be substituted, namely:—

'(*11*) "life insurance business" means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include—

(*a*) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance;

(*b*) the granting of annuities upon human life; and

(*c*) the granting of superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons;';

(*11*) after clause (*13*), the following clauses shall be inserted, namely:

'(*13A*) "marine insurance business" means the business of effecting contracts of insurance upon vessels of any description, including cargoes, freights and other interests which may be legally insured, in or in relation to such vessels, cargoes and freights, goods, wares, merchandise and property of whatever description insured for any transit by land or water, or both, and whether or not including warehouse risks or similar risks in addition or as incidental to such transit, and includes any other risks customarily included among the risks insured against in marine insurance policies;

(*13B*) "miscellaneous insurance business" means the business of effecting contracts of insurance which is not principally or wholly of any kind or kinds included in clauses (*6A*), (*11*) and (*13A*);';

(*12*) for clause (*15*), the following clauses shall be substituted, namely:—

'(*15*) "principal agent" means a person who, not being a salaried employee of an insurer, in consideration of any commission,—

(*i*) performs any administrative and organising functions for the insurer,

(*ii*) procures general insurance business by employing or causing to be employed insurance agents on behalf of the insurer, and

(*iii*) accepts proposals, signs and issues cover-notes, policies or renewal receipts in respect of such insurance business under authority in writing granted to him by the insurer ;

(*16*) "private company" and "public company" have the meanings respectively assigned to them in clauses (*13*) and (*13A*) of section 2 of the Indian Companies Act, 1913 (VII of 1913);

(*17*) "special agent" means a person who, not being a salaried employee of an insurer, in consideration of any commission, procures life insurance business for the insurer, by employing or causing to be employed insurance agents on behalf of the insurer, but does not include a chief agent.'

4. Amendment of certain sections in Act IV of 1938.—In sections other than section 2 of the said Act, for the words "Superintendent of Insurance" and "Superintendent" (occurring otherwise than in the expression "Superintendent of Insurance"), the words "Controller-General of Insurance" and "Controller-General" shall respectively be substituted.

5. Insertion of new sections 2A and 2B in Part I, Act IV of 1938.—In Part I, after section 2 of the said Act, the following sections shall be inserted namely :—

'2A. *Rule of construction in applying Act to Acceding State.*—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*1*) references to the Provinces or Provinces of India or to any Province of India shall be construed as references to that Acceding State ;

(*2*) references to any Provincial Government shall be construed as references to the Government of that Acceding State; and

(*3*) references to any enactment in force in the Provinces of India but not in force in that Acceding State shall be construed as references to the corresponding enactment, if any, in force in that State.

2B. *Appointment and duties of Controller-General of Insurance.*—The Central Government may, by notification in the official Gazette, appoint a person to be the Controller-General of Insurance, who shall perform the duties of the Controller-General of Insurance under this Act.'

6. Insertion of new section 2C in Part II, Act IV of 1938.—In Part II of the said Act, sections 2A and 2B shall be re-numbered as sections

2D and 2E, and before the sections as so re-numbered, the following section shall be inserted, namely :—

"2C. *Prohibition of transaction of insurance business by certain persons.*—Save as hereinafter provided, no person shall, after the commencement of the Insurance (Amendment) Act, 1949, begin to carry on any class of insurance business in the Provinces, and no insurer carrying on any class of insurance business in the Provinces shall, after the expiry of one year from such commencement, continue to carry on any such business unless he is—

(*a*) a public company, or

(*b*) a society registered under the Co-operative Societies Act, 1912 (II of 1942), or under any other law for the time being in force in any Province of India relating to co-operative societies, or

(*c*) a body corporate incorporated under the law of any country or State outside the Provinces of India :

Provided that the Central Government may, by notification in the official Gazette, exempt to such extent, for such period and subject to such conditions as it may specify, any person or insurer from the operation of this section for the purpose of carrying on the business of granting superannuation allowances and annuities of the nature specified in sub-clause (*c*) of clause (*11*) of section 2 or for the purpose of carrying on any general insurance business."

7. Amendment of section 3, Act IV of 1938.—In section 3 of the said Act,—

(*1*) in sub-section (*4*),—

(*i*) for clause (*f*), the following clause shall be substituted, namely :—

"(*f*) if the insurer makes default in complying with, or acts in contravention of, any requirement of this Act or of any rule or order made thereunder, or";

(*ii*) for clause (*h*), the following clause shall be substituted, namely :—

"(*h*) if the insurer carries on any business other than insurance business or any prescribed business";

(*2*) in sub-section (*5C*) for the words, figure and letter "or that he has complied with the order under section 3B" the words "or that he has complied with any requirement of this Act or of any rule or order made thereunder or that he has ceased to carry on any business other than insurance business or any prescribed business" shall be substituted ;

(*3*) in sub-section (*6*), for the figures and word "5, 10 and 32", the figures, letters and word "2C, 5, 6A, 10(*2A*), 31A and 32" shall be substituted.

8. Amendment of section 4, Act IV of 1938.—In sub-section (*1*) of section 4 of the said Act, for the words and figures "the Insurance Act, 1938" the words "this Act" shall be substituted.

9. Insertion of new sections 6A, 6B, and 6C in Act IV of 1938.—After section 6 of the said Act, the following sections shall be inserted, namely :—

"6A. *Requirements as to capital structure and voting rights and maintenance of registers of beneficial owners of shares.*—(*1*) No public company limited by shares having its registered office in any Province of India, shall after the expiry of one year from the commencement of the Insurance (Amendment) Act, 1949, carry on life insurance business, unless it satisfies all the following conditions, namely :—

(*i*) that the capital of the company consists only of ordinary shares each of which has a single face value ;

(*ii*) that, except during any period not exceeding one year allowed by the company for payment of calls on shares, the paid-up amount is the same for all shares, whether existing or new ;

(*iii*) that the voting right of every shareholder of the company is strictly proportionate to the number of shares held by him.

(*2*) A public company as aforesaid which carries on life insurance business—

(*a*) shall maintain, in addition to the register of members to be maintained under the Indian Companies Act, 1913 (VII of 1913), a register of shares in which shall be entered the name, occupation and address of the beneficial owner of each share, and shall incorporate therein any change of beneficial owner declared to it within fourteen days from receipt of such declaration ;

(*b*) shall not register any transfer of its shares—

(*i*) unless, in addition to compliance being made with the provisions of section 34 of the Indian Companies Act, 1913 (VII of 1913), the transferee furnishes a declaration as to whether he proposes to hold the shares for his own benefit or as a nominee, whether jointly or severally, on behalf of others, and in the latter case giving the name, occupation and address of the beneficial owner or owners, and the extent of the beneficial interest of each ; and

(*ii*) where, after the transfer, the total paid-up holding of the transferee in the shares of the company is likely to exceed five per cent of its paid-up capital or where the transferee is a banking or an investment company, is likely to exceed two and a half per cent of such paid-up capital, unless the previous sanction of the Central Government has been obtained to the transfer.

Explanation.—For the purposes of this sub-section and of sub-section (5), the holding of a person in the shares of a company shall be deemed to include—

(*i*) the total paid-up holding in such shares held by such person in the name of others; and

(*ii*) if any shares of the company are held—

(*a*) by a public limited company, of which such person is a member holding more than ten per cent of the paid-up capital, or

(*b*) by a private limited company, of which such person is a member, or

(*c*) by a company, of which such person is a managing director, manager, managing agent or in which he has a controlling interest, or

(*d*) by a firm in which such person is a partner, or

(*e*) by such person jointly with others,

such part of the total paid-up holding of the company or firm or of the total joint holding in those shares, as is proportionate to the contribution made by such person to the paid-up capital of the company, the paid-up capital of the firm or the joint holding, as the case may be.

(*3*) Every person in whose name any shares are registered in the register of members of any company referred to in sub-section (*2*) on the date on which the provisions of this section become applicable to the company, shall within thirty days from that date make a declaration to the company as to whether there are any beneficial owners other than himself in any shares standing in his name, and if so, stating the name, occupation and address of the beneficial owner of each such share, and notwithstanding anything contained in any other law or in any contract to the contrary, a person who fails to make a declaration as aforesaid in respect of any shares, shall not be entitled to any vote as a shareholder of the company in respect of those shares.

(*4*) Every person who has any interest in any share of a company referred to in sub-section (*2*) which stands in the name of another person in the register of members of the company, shall, within thirty days from the date on which the provisions of this section become applicable to the company or on which he acquires such interest, whichever is later, make a declaration (which shall be countersigned by the person in whose name the share is registered) to the company declaring his interest in such share, and notwithstanding anything contained in any other law or in any contract to the contrary, a person who fails to make a declaration as aforesaid in respect of any share shall be deemed to have no right or title whatsoever in those shares.

(*3*) If the total paid-up holding of any person in the shares of a company referred to in sub-section (*2*) on the date on which the provisions of this section become applicable to the company exceeds two and a half per cent of its paid-up capital where that person is a banking company or an investment company, or five per cent of its paid-up capital in any other case, he shall dispose of the excess holding of shares within one year from that date or such further period as may be allowed by the Central Government, and shall not be entitled to any vote as a shareholder of the company in respect of such excess holding of shares:

Provided that the Central Government may, subject to such restrictions as it may think fit to impose, exempt from the operation of this sub-section any insurance company in any case where the total paid-up holding of such insurance company in the shares of any other insurance company exceeds the limits specified in this sub-section if the other insurance company is or is to be made the subsidiary company of the insurance company.

6B. *Provision for securing compliance with requirements relating to capital structure.*—(*1*) For the purpose of enabling any public company carrying on life insurance business to bring its capital structure into conformity with the requirements of section 6A, an officer appointed in this behalf by the Central Government may, notwithstanding anything contained in the Indian Companies Act, 1913 (VII of 1913),—

(*a*) examine any scheme proposed for the purpose aforesaid by the directors of the company:

Provided that—

(*i*) the scheme has been placed before a meeting of the shareholders for their opinion and has been forwarded to the officer together with the opinion of the shareholders thereon; and

(*ii*) the scheme does not involve any diminution of the liability of the shareholders in respect of unpaid-up share capital;

(*b*) invite objections and suggestions in respect of the scheme so proposed; and

(*c*) after considering such objections and suggestions to the scheme so proposed, sanction it with such modifications as he may consider necessary or desirable.

(*2*) Against the decision of the officer sanctioning a scheme under sub-section (*1*), any shareholder or other person aggrieved thereby may, within ninety days of the date of the order sanctioning the scheme, prefer an appeal to the High Court within whose jurisdiction the registered office of the insurer is situate.

(*3*) The decision of the High Court where an appeal has been preferred to it under sub-section (*2*), or of the officer aforesaid where no such appeal has been preferred, shall be final and binding on all the shareholders and other persons concerned.

6C. *Conversion of company limited by shares into company limited by guarantee.*—(*1*) Where a public company limited by shares carrying on insurance business has passed a special resolution for converting itself into a public company limited by guarantee, it may apply to the Central Government with a scheme for putting the special resolution into effect, including any provision for the alteration of the memorandum or articles of association in so far as it may be necessary for this purpose.

(*2*) If the Central Government, after giving such notice to any person concerned as it thinks fit, is satisfied—

(*a*) that the scheme makes suitable provision with respect to the repayment, conversion or liquidation of the paid-up capital of the company,

(*b*) that the consent of the creditors to the conversion of the company limited by shares into a company limited by guarantee has been obtained, or that suitable provisions have been made for discharging, determining or securing the debts or claims of such creditors, and

(*c*) that the scheme is otherwise reasonable, it may sanction the scheme and thereupon the scheme shall become binding on the company and on all the persons concerned.

(*3*) Against the decision of the Central Government sanctioning a scheme under sub-section (*2*), any person aggrieved thereby may, within ninety days of the date of the order sanctioning the scheme, prefer an appeal to the High Court within whose jurisdiction the registered office of the insurer is situate.

(*4*) The decision of the High Court where an appeal has been preferred to it under sub-section (*3*) or of the Central Government where no such appeal has been preferred, shall be final and binding on all the persons concerned.

(*5*) Where a scheme has been sanctioned under this section, the company shall file with the Registrar of companies a certified copy of the scheme as sanctioned, and thereupon the provisions of the Indian Companies Act, 1913 (VII of 1913), relating to companies limited by guarantee shall become applicable to the company."

10. Amendment of section 7, Act IV of 1938.—In section 7 of the said Act,—

(*i*) in clause (*d*) of sub-section (*1*), the words "that is to say, insurance which is not in the opinion of the Central Government

principally or wholly of any kind or kinds included in clauses (*a*), (*b*) or (*c*)" shall be omitted;

(ii) in sub-section (4) and the proviso to sub-section (5), the words "and not being an insurer incorporated in or domiciled in the United Kingdom" shall be omitted.

11. Amendment of Section 10, Act IV of 1938.—In sub-section (2) of section 10 of the said Act, for the words beginning with the words "and a statement, certified by an auditor" and ending with the words "in any case think fit to allow", the following shall be substituted, namely:—

"and every insurer shall, within the time limited in sub-section (1) of section 15 in regard to the furnishing of the statements and accounts referred to in section 11, furnish to the Controller-General a statement showing in detail such assets as at the close of every calendar year duly certified by an auditor or by a person qualified to audit under the law of the insurer's country:

Provided that such statement shall, in the case of an insurer to whom section 11 applies, be set out as a part of the balance-sheet mentioned in clause (*a*) of sub-section (1) of that section:

Provided further that an insurer may show in such statement all the assets held in his life department, but at the same time showing any deductions on account of general reserves and other liabilities of that department:

Provided also that the Controller-General may call for a statement similarly certified of such assets as at any other date specified by him to be furnished within a period of three months from the date with reference to which the statement is called for."

12. Amendment of Section 11, Act IV of 1938.—In sub-section (2) of section 11 of the said Act, for the words, "accompanied by a statement containing the names and descriptions of the persons in charge of the management of the business.", the words "accompanied by a statement containing the names, descriptions and occupations of, and the directorships held by, the persons in charge of the management of the business" shall be substituted and the words "by such persons" shall be omitted.

13. Amendment of Section 13, Act IV of 1938.—In section 13 of the said Act.—

(i) in sub-section (1), and the proviso to sub-section (4), for the words "in every five years" the words "in every three years" shall be substituted;

(ii) to sub-section (1), the following provisos shall be added, namely :—

"Provided that for an insurer carrying on life insurance business in India at the commencement of the Insurance (Amendment) Act, 1949, the last date as at which the first investigation after such commencement should be caused to be made by an actuary shall be—

(*a*) the 31st day of December, 1950, or the date of expiration of five years from the date as at which the last investigation was made by an actuary before such commencement, whichever is earlier, where the said last investigation was at a date—

(i) before the 31st day of December, 1946, but not more than five years before such commencement, or

(ii) after the 30th day of December, 1946, but before the 31st day of December 1947, and had disclosed a deficit in the life insurance fund;

(*b*) the 31st day of December, 1951, where the last investigation by an actuary before such commencement was at a date—

(i) after the 30th day of December 1946, but before the 31st day of December 1947, and did not disclose a deficit in the life insurance fund; or

(ii) after the 30th day of December, 1947, but before the 31st day of December, 1948;

(*c*) the 31st day of December 1952, where the last investigation by an actuary before such commencement was as at any date after the 30th day of December 1948, but before such commencement:

Provided further that, in the case of an insurer who has not caused an investigation to be made by an actuary as at any date prior to such commencement the date of commencement of life insurance business in India shall, for the purpose of the preceding proviso, be deemed to be the date as at which the last investigation was made by an actuary before such commencement and such investigation shall be deemed to have disclosed no deficit in the life insurance fund."

14. Amendment of Section 19, Act IV of 1938.—In section 19 of the said Act, for the words "an abstract of the proceedings of every general meeting" the words "a certified copy of the minutes of the proceedings of every general meeting, as entered in the Minutes Book of the insurer" shall be substituted.

15. Amendment of Section 21, Act IV of 1938.—In clause (*d*) of sub-section (1) of section 21 of the said Act,—

(i) after the words "delivered to the insurer" the words "or of such further time as the Controller-General may specify in the requisition" shall be inserted;

(ii) after the word and figures "section 28" the words, figures, and letter "or section 28A" shall be inserted.

16. Substitution of new section for section 27 Act IV of 1938.—For section 27 of the said Act, the following section shall be substituted, namely:—

"27 *Investment of assets.*—(1) Every insurer shall invest and at all times keep invested assets equivalent to not less than the sum of—

(*a*) the amount of his liabilities to holders of life insurance policies in India on account of matured claims, and

(*b*) the amount required to meet the liability on policies of the life insurance maturing for payment in India.

less—

(i) the amount of premiums which have fallen due to the insurer on such policies but have not been paid and the days of grace for payment of which have not expired, and

(ii) any amount due to the insurer for loans granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability.

in the manner following, namely, twenty-five per cent, of the said sum in Government securities, a further sum equal to not less than twenty-five per cent of the said sum in Government securities or other approved securities and the balance in any of the approved investments specified in sub-section (1) of section 27A or, subject to the limitations, conditions and restrictions specified in sub-section (2) of that section in any other investment.

(2) for the purposes of sub-section (1)—

(*a*) the amount of any deposit made under section 7 or section 98 by the insurer in respect of his life insurance business shall be deemed to be assets invested or kept invested in Government securities;

(*b*) the securities of, or guaranteed as to principal and interest by, the Government of the United Kingdom shall be regarded as approved securities other than Government securities for a period of four years from the commencement

of the Insurance (Amendment) Act, 1949, in the manner and to the extent hereinafter specified, namely.—

(i) during the first year, to the extent of twenty-five per cent in value of the sum referred to in sub-section (1);

(ii) during the second year, to the extent of eighteen and three-fourths per cent. in value of the said sum;

(iii) during the third year, to the extent of twelve and a half per cent, in value of the said sum; and

(iv) during the fourth year, to the extent of six and a quarter per cent, in value of the said sum:

Provided that, if the Central Government so directs in any case, the securities specified in clause (*b*) shall be regarded as approved securities other than Government securities for a longer period than four years, but not exceeding six years in all, and the manner in which and the extent to which the securities shall be so regarded shall be as specified in the direction.

(3) In computing the assets referred to in sub-section (1).—

(*a*) any investment made with reference to any currency other than the Indian rupee which is in excess of the amount required to meet the liabilities of the insurer in India with reference to that currency, to the extent of such excess; and

(*b*) any investment made in the purchase of any immovable property outside India or on the security of any such property shall not be taken into account.

(4) Where an insurer has accepted reassurance in respect of any policies of life insurance issued by another insurer and maturing for payment in India or has ceded reassurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section (1) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of the liability involved in such cession.

(5) The Government securities and other approved securities in which assets are under sub-section (1) to be invested and kept invested shall be held by the insurer free of any encumbrance, charge, hypothecation or lien.

(6) The assets required by this section to be held invested by an insurer incorporated or domiciled elsewhere than in the Provinces shall be held in India, except such foreign assets, if any, as may be held outside India, and all such assets shall be held in trust for the discharge of the liabilities of the nature

referred to in sub-section (1) and shall be vested in trustees approved by the Central Government who are either—

(*a*) citizens of India, or

(*b*) companies, co-operative societies or other bodies registered in the Provinces,

and the instrument of trust under this sub-section shall be executed by the insurer with the approval of the Central Government and shall define the manner in which alone the subject-matter of the trust shall be dealt with.

Explanation.—This sub-section shall apply to an insurer incorporated in the Provinces whose share-capital to the extent of one-third is owned by, or the members of whose governing body to the extent of one-third consists of, members domiciled elsewhere than in the Provinces."

17 Insertion of new section 27A in Act IV of 1938.—After section 27 of the said Act, the following section shall be inserted, namely :—

"27A. *Further provisions regarding investments.*—(1) No insurer shall invest or keep invested any part of his controlled fund otherwise than in any of the following approved investments, namely :—

(*a*) approved securities ,

(*b*) securities of, or guaranteed as to principal and interest by the Government of the United Kingdom or any British possession ;

(*c*) debentures or other securities for money issued with the permission of the Provincial Government by any municipality in a Province ,

(*d*) debentures or other securities for money issued by any authority constituted under any housing or building scheme approved by the Central or a Provincial Government, or by any authority or body constituted by any Central Act or Act of a Legislature established in a Province ;

(*e*) debentures secured by a charge on any immovable property, plant or equipment of any company which has paid interest in full for at least five out of the seven years immediately preceding on such or similar debentures issued by it ;

(*f*) debentures of any company which has paid dividends on its ordinary shares for at least five out of the seven years immediately preceding ;

(*g*) preference shares of any company which has paid dividends on its ordinary shares for at least five out of the seven years immediately preceding ;

(*h*) shares of any company which have been guaranteed by another company, such other company having paid dividends on its ordinary shares for at least five out of the seven years immediately preceding;

Provided that the amount of shares under guarantee is not in excess of fifty per cent of the amount of preference and ordinary shares of the guaranteeing company;

(*i*) shares of any company on which dividends of not less than four per cent including bonus have been paid for at least seven out of the nine years immediately preceding;

(*j*) first mortgages on immovable property in the Provinces or in any other country where the insurer is carrying on insurance business;

Provided that the property mortgaged is not lease-hold property with an outstanding term of less than thirty years and the value of the property exceeds by one-third, or if consisting of buildings exceeds by one-half, the mortgage money;

(*k*) immovable property in the Provinces or in any other country where the insurer is carrying on insurance business:

Provided that the property is free of all encumbrances;

(*l*) loans on reversions or life interests, or on policies of life insurance within their surrender values issued by him or by an insurer whose business he has acquired and in respect of which business he has assumed liability;

(*m*) reversions and life interests;

(*n*) fixed deposits with banks included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934 (II of 1934);

(*o*) debentures of shares in, or fixed deposits with, co-operative societies registered under the Indian Co-operative Societies Act, 1912 (II of 1912), or under any other law for the time being in force and doing banking business;

(*p*) such other investments as the Central Government may, by notification in the official Gazette, declare to be approved investments for the purposes of this section.

(2) Notwithstanding anything contained in sub-section (*1*), an insurer being a company may, subject to the provisions contained in the next succeeding sub-sections, invest or keep invested any part of his controlled fund otherwise than in an approved investment, if—

(*i*) after such investment, the total amounts of all such investments of the insurer do not exceed fifteen per cent of the sum referred to in sub-section (*1*) of section 27,

(*ii*) the investment is made, or in the case of any investment already made the continuance of such investment is with the consent of all the directors present at a meeting and eligible to vote, special notice of which has been given to all the directors then in India,

and all such investments, including investments in which any director is interested shall be reported without delay to the Controller-General with full details of the investments and the extent of the director's interest in any such investment.

(3) An insurer shall not out of his controlled fund invest or keep invested in the shares of any one banking company or investment company more than—

(*a*) two and a quarter per cent of the sum referred to in sub-section (*1*) of 27, or

(*b*) two per cent of the subscribed share capital and debentures of the banking company or investment company concerned, whichever is less:

Provided that nothing in this sub-section shall apply to investments in the shares of the Imperial Bank of India.

(4) An insurer shall not out of the controlled fund invest or keep invested in the shares or debentures of any one joint stock company other than a banking company or investment company more than—

(*a*) two and a quarter per cent. of the sum referred to in sub-section (1) of section 27, or

(*b*) ten per cent of the subscribed share capital and debentures of the joint stock company.

whichever is less:

Provided that nothing in this sub-section shall apply to any investment made with the previous consent of the Central Government by an insurer, being a company, with a view to forming a subsidiary company carrying on insurance business.

(5) An insurer shall not out of his controlled fund invest or keep invested any sum in the shares or debentures of any private limited company.

(6) Where an investment is in partly paid-up shares, the uncalled liability on such shares shall be added to the amount invested for the purpose of computing the percentages referred to in clause (*a*) of sub-section (3) and clause (*a*) of sub-section (4).

(7) Notwithstanding anything contained in sub-sections (3) and (4), where new shares are issued to the existing shareholders by a joint stock company the existing shares of which are

covered by clause (*h*) or clause (*i*) of sub-section (1) and of which an insurer is already a shareholder, the insurer may subscribe to such new shares :

Provided that the proportion of new shares subscribed by him does not exceed the proportion which the paid-up amount on the shares held by him immediately before such subscription bears to the total paid-up capital of the company at the time of such subscription.

(8) If, on an application submitted through the Controller-General, the Central Government is satisfied that special grounds exist warranting such exemption, the Central Government may, for such period, to such extent and in relation to such particular investments and subject to such conditions as may be specified by it in this behalf, exempt an insurer from all or any of the provisions of sub-sections (3), (4) and (7).

(9) An insurer shall not keep more than three per cent of the controlled fund in fixed deposit or current deposit, or partly in fixed deposit and partly in current deposit, with any one banking company :

Provided that in applying this sub-section to the amount in deposit with a banking company on any day, all the premiums collected by that company on behalf of the insurer during the preceding thirty days shall be excluded.

(10) All assets forming the controlled fund, not being securities invested or held invested in accordance with section 27 shall (except for a part thereof not exceeding one-tenth of the controlled fund in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment) be held free of any encumbrance, charge, hypothecation or lien.

(11) If at any time the Central Government considers any one or more of the investments constituting an insurer's controlled fund to be unsuitable or undesirable, the Central Government may, after giving the insurer an opportunity of being heard, direct him to realise the investment or investments, and the insurer shall comply with the direction within such time as may be specified in this behalf by the Central Government.

(12) Every insurer in existence at the commencement of the Insurance (Amendment) Act, 1949, whose investments or any part thereof at such commencement contravene any of the provisions of this section, shall submit to the Controller-General a report specifying every such investment, within thirty days from the date on which this section comes into force; and the provisions of this section shall not apply in relation to any such investment for a period of one year from

the commencement of that Act or for such further period or periods as the Central Government may, by order, allow in respect of such investment on the ground that earlier realisation thereof will not be in the interests of the insurer.

(13) Nothing contained in this section shall be deemed to affect in any way the manner in which any moneys relating to the provident fund of any employee or to any security taken from any employee or other moneys of a like nature are required to be held by or under any Central Act or Act of a Legislature established in a Province.

Explanation.—In this section "controlled fund" means—

(*a*) in the case of any insurer specified in sub-clause (*a*) (*ii*) or sub-clause (*b*) of clause (*9*) of section 2 and carrying on life insurance business —

(*i*) all his funds, if he carries on no other class of insurance business;

(*ii*) all the funds appertaining to his life insurance business if he carries on some other class of insurance business also; and

(*b*) in the case of any other insurer carrying on life insurance business,—

(*i*) all his funds in India, if he carries on no other class of insurance business;

(*ii*) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also,

but does not include any fund or portion thereof in respect of which the Controller-General is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or in respect of which the Controller-General is satisfied that it would be impracticable to apply the provisions of this section."

18. Amendment of section 28, Act IV of 1938.—In section 28 of the said Act,—

(*i*) in sub-section (*1*), the words "registered under this Act" shall be omitted;

(*ii*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*2A*) in respect of the Government securities and other approved securities invested and kept invested in accordance with sub-section (*1*) of section 27 an insurer shall submit along

with the returns referred to in sub-sections (*1*) and (*2*) a certificate, where such assets are in the custody of a banking company, from that company, and in any other case, from the chairman, two directors and a principal officer, if the insurer is a company, or otherwise from a principal officer of the insurer, to the effect that the securities are held free of any encumbrance, charge, hypothecation, or lien, and every such certificate after the first shall also state that since the date of the certificate immediately preceding all the securities have been so held.

(*2B*) In respect of the assets forming the controlled fund within the meaning of section 27A, and which do not form part of the Government securities and approved securities invested and kept invested in accordance with section 27, an insurer shall submit, along with the returns referred to in sub-section (*1*) and (*2*), a statement, where such assets are in the custody of a banking company, from that company, and in any other case, from the chairman, two directors and a principal officer if the insurer is a company, or from a principal officer of the insurer if the insurer is not a company, specifying the assets which are subjected to a charge and certifying that the other assets are held free of any encumbrance, charge, hypothecation, or lien, and every such statement after the first shall also specify the charges created in respect of any of those assets since the date of the statement immediately preceding, and if any such charges have been liquidated, the date on which they were so liquidated."

19. Insertion of new section 28A in Act IV of 1938.—After section 28 of the said Act, the following section shall be inserted, namely:—

"28A. *Return showing changes in investment.*—Every insurer carrying on life insurance business shall furnish to the Controller-General a return in the prescribed form showing the changes in the investments constituting his controlled fund, referred to in section 27A during each of the quarters ending on the last day of March, June, September and December, within thirty days from the close of the quarter to which it relates, and every such return shall be certified by a principal officer of the insurer."

20. Amendment of section 29, Act IV of 1938.—In section 29 of the said Act,—

(*i*) in the first proviso to sub-section (*1*), for the words "nothing herein contained", the words "nothing contained in this sub-section" shall be substituted;

(*ii*) the second and third provisos to sub-section (*1*) shall be omitted;

(*iii*) to the fourth proviso the following words shall be added, namely :—

"and where any such loan or advance is made out of any life insurance fund the matter shall be reported without delay to the Controller-General.";

(*iv*) after sub-section (*2*), the following sub-section shall be added, namely :—

"(*3*) Subject to the provisions of sub-section (*1*) no insurer carrying on life insurance business shall grant—

(*a*) any loans or temporary advances either on hypothecation of property or on personal security or otherwise, except such loans as are specified in sub-section (*1*) of section 27A;

(*b*) temporary advances to any chief, special or insurance agent to facilitate the carrying out of his functions as such except in cases where such advances do not exceed in the aggregate—

(*i*) in the case of a chief agent, overriding renewal commission earned by him;

(*ii*) in the case of a special agent, one-half of the overriding commission earned by him,

(*iii*) in the case of an insurance agent, the renewal commission earned by him,

during the two years immediately preceding.

(*4*) Every loan or advance existing at the commencement of the Insurance (Amendment) Act, 1949, which contravenes the provisions of sub-section (*3*) shall be notified by the insurer to the Controller-General within thirty days of such commencement and shall notwithstanding any contract to the contrary be repaid within one year from such commencement.

(*5*) Where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan or advance would have made such grant a contravention of this section, such loan or advance shall, notwithstanding anything in any contract to the contrary, be repaid within three months from the occurrence of such event.

(*6*) In case of default in complying with the provisions of sub-section (*4*) or sub-section (*5*), the director, manager, auditor, actuary, officer or partner, or the chief, special or insurance agent concerned shall, without prejudice to any other penalty which he may incur, cease to hold office under, or to act for, the insurer granting the loan on the expiry of the said period of one year or three months, as the case may be."

21. Amendment of section 30, Act IV of 1938.—In section 30 of the said Act, after the word and figures "section 27" the word, figures and letter "section 27A" shall be inserted.

22. Amendment of section 31, Act IV of 1938.—In section 31 of the said Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Nothing contained in this section shall be deemed to prohibit the endorsement in favour of a banking company of any security or other document solely for the purpose of collection or for realisation of interest, bonus or dividend."

23. Insertion of new sections 31A and 31B in Act IV of 1938.—After section 31 of the said Act, the following sections shall be inserted, namely:—

"31A. *Provisions relating to managers, etc.*—(*1*) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in the articles of association of the insurer, if a company or in any contract or agreement, no insurer shall after the expiry of three months from the commencement of the Insurance (Amendment) Act, 1949,

(*a*) be managed by a company or a firm, or

(*b*) be directed or managed by, or employ as manager or officer or in any capacity, any person whose remuneration or any part thereof takes the form of commission or bonus or a share in the valuation surplus in respect of his life insurance business, or

(*c*) be directed or managed by, or employ as manager or officer or in any capacity, any person whose remuneration or any part thereof takes the form of commission or bonus in respect of his insurance business other than life insurance business:

Provided that nothing in this sub-section shall be deemed to prohibit—

(*i*) the payment of commission to a chief agent, special agent or an insurance agent, in respect of life insurance business procured by or through him;

(*ii*) the payment of commission to a principal agent or an insurance agent in respect of general insurance business procured by or through him;

(*iii*) the payment of commission, for such period as the Central Government may determine, to a person not being an officer of an insurer who was, on the 1st day of November, 1944, employing on behalf of an insurer chief agents or special agents and continues so to do in respect of insurance business procured by or through him;

(*iv*) the employment of any individual otherwise than as an officer who, in his capacity as an insurance agent, receives commission in respect of insurance business procured by him;

(*v*) the employment as an officer of any individual who receives renewal commission in respect of life insurance business procured by him as an insurance agent before such employment, or before the commencement of the Insurance (Amendment), Act, 1949, whichever is later;

(*vi*) the payment of a share in the profits of insurance business other than life insurance business;

(*vii*) the payment of bonus in any year on a uniform basis to all salaried employees or any class of them by way of additional remuneration, such bonus, in the case of any employee, not exceeding in amount the equivalent of his salary for a period which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case.

(*2*) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913, or in the articles of association of the insurer, being a company, or in any contract or agreement, no manager, managing director or any other person concerned in the management of an insurer's business, shall be entitled to nominate a successor to his office, and no person so nominated, whether before or after the commencement of the Insurance (Amendment) Act, 1949, shall be entitled to hold or to continue in such office.

(*3*) If in the case of any insurance company provision is made by the articles of association of the company or by an agreement entered into between any person and the company for empowering a director or manager or other officer of the company to assign his office to any other person, any assignment of office made in pursuance of the said provision, shall, notwithstanding anything to the contrary contained in the said provision or in section 86B of the Indian Companies Act, 1913, be void.

(*4*) No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any provision of this section.

31B. *Power to restrict payment of excessive remuneration.*—(1) The Central Government may, if it is satisfied that any insurer is paying any person in respect of insurance business transacted in India remuneration, whether by way of commission or otherwise, on a scale disproportionate, according to the normal standards prevailing in insurance business, to the resources of the insurer, call upon the insurer to comply within six months with such directions as it may

think fit to issue in the matter, and if compliance with the directions so issued requires the alteration of any of the terms of the contract entered into by the insurer with such person, no compensation shall be payable to such person by the insurer by reason only of such alteration or of the resignation of such person if the altered terms are not acceptable to him and no payment by way of renewal commission or otherwise shall be made to such person by the insurer in respect of any premiums paid after the date of such resignation.

(2) Every insurer shall, before the close of the month following every year, submit to the Controller-General a statement in the prescribed form showing the remuneration paid, whether by way of commission or otherwise, to any person in cases where such remuneration exceeds the sum of five thousand rupees in that year.

(3) Where any person not being a chief agent, principal agent or special agent is in receipt of remuneration exceeding the sum of five thousand rupees in any year, the Controller-General may by notice in writing require the insurer to submit certified copies of the agreement entered into between the insurer and any such person, and the insurer shall comply with any such requisition within the time specified in the notice."

24. Insertion of new section 32A in Act IV of 1938.—After section 32 of the said Act, the following section shall be inserted, namely :—

"32A. *Prohibition of common officers and requirement as to whole-time officers.*—(*1*) A managing director or other officer of an insurer specified in sub-clause (*b*) of clause (*9*) of section 2 and carrying on life insurance business shall not be a managing director or other officer of any other insurer carrying on life insurance business or of banking company or of an investment company :

Provided that the Central Government may permit such managing director or other officer to be a managing director or other officer of any other insurer carrying on life insurance business for the purpose of amalgamating the business of the two insurers or transferring the business of one insurer to the other.

(*2*) Where an insurer specified in sub-clause (*b*) of clause (*9*) of section 2 has a life insurance fund of more than twenty-five lakhs of rupees or insurance funds totalling more than fifty lakhs of rupees, the manager, managing director or other officer of the insurer shall be a whole-time employee of the insurer :

Provided that the Central Government may, for such period as it thinks fit, permit the employment of any specified person as

a part-time manager, managing director or other officer of such insurer.

(3) Nothing in this section shall prevent—

(a) the manager, managing director or other officer of an insurer being the manager, managing director or other officer of a subsidiary company of the insurer;

(b) the manager, managing director or other officer of an insurer exclusively carrying on life insurance business, being the manager, managing director or other officer of an insurer not carrying on life insurance business;

(c) an officer in the employment of an insurer from giving professional advice.

Explanation.—In this section the expression 'officer' does not include a director."

25. Insertion of new section 34A in Act IV of 1938.—After section 34 of the said Act, the following section shall be inserted, namely:—

"34A. *Power of investigation.*—(1) The Central Government may at any time, by order in writing, direct the Controller-General or any other person specified in the order to investigate the affairs of any insurer and to report to the Central Government on any investigation made by him:

Provided that the Controller-General or the other person may, wherever necessary, employ an auditor or actuary or both for the purpose of assisting him in any investigation under this section.

(2) It shall be the duty of every manager, managing director or other officer of the insurer to produce before the person directed to make the investigation under sub-section (1) all such books of account, registers and other documents in his custody or power and to furnish him with any statements and information relating to the affairs of the insurer as the said person may require of him within such time as the said person may specify.

(3) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director or other officer of the insurer in relation to his business and may administer oaths accordingly.

(4) On receipt of any report under sub-section (1), the Central Government may, after giving such opportunity to the insurer to make a representation in connection with the report as, in the opinion of the Central Government, seems reasonable, by order in writing,—

(a) require the insurer to take such action in respect of any matter as the Central Government may think fit, or

(*b*) direct the Controller-General to cancel the registration of the insurer and to apply to the Court for the winding up of the insurer, if a company.

(*5*) No order made under this section shall be called in question in any Court.

(*6*) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the insurer, shall have priority over other debts due from the insurer and shall be recoverable as an arrear of land-revenue."

26. Amendment of section 35, Act IV of 1938.—In section 35 of the said Act,—

(*i*) in sub-section (*1*), for the words "Court having jurisdiction over one or other of the parties concerned", the word "Controller-General shall be substituted;

(*ii*) in sub-section (*3*), for the word "Court" and the words "Central Government", wherever they occur, the word "Controller-General" shall be substituted;

(*iii*) sub-section (*4*) shall be omitted.

27. Amendment of section 36, Act IV of 1938.—Section 36 of the said Act shall be renumbered as sub-section (*1*) of that section, and

(*a*) in that sub-section as so renumbered,—

(*i*) for the words "Court" and "it", wherever they occur, the words "Controller-General" and "he" shall, respectively, be substituted;

(*ii*) the words "or in a non-acceding State" shall be omitted; and

(*b*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) If the arrangement involves a reduction of the amount of the insurance and other contracts of the transferor insurer or of any or all of the insurers concerned in the amalgamation, the Controller-General may sanction the arrangement, reducing the amount of such contracts upon such terms and subject to such conditions as he may think proper, and the reduction of contracts as sanctioned by the Controller-General shall be valid and binding on all the parties concerned."

28. Amendment of section 37, Act IV of 1938.—In section 37 of the said Act, for the word "Court", in both the places where it occurs, and for the words "Central Government", the word "Controller-General" shall be substituted.

29. Amendment of section 39, Act IV of 1938.—In section 39 of the said Act, to sub-section (*1*) the following proviso shall be added, namely :—

"Provided that, where any nominee is a minor, it shall be lawful for the policy-holder to appoint in the prescribed manner any person to receive the money secured by the policy in the event of his death during the minority of the nominee."

30. Amendment of section 40, Act IV of 1938.—In section 40 of the said Act,—

(*i*) in sub-section (*1A*), after the words "and sections" the figures and letter "40A" shall be inserted;

(*ii*) to sub-section (*2*) the following further proviso shall be added, namely :—

"Provided further that nothing in this sub-section shall apply in respect of any policy of insurance issued after the 31st day of December, 1949.";

(*iii*) in the proviso to sub-section (*2A*), after the words "notice in writing to the insurance agent through whom the policy was effected", the words "if such agent continues to be an agent of the insurer" shall be inserted.

31. Insertion of new sections 40A to 40C in Act IV of 1938.—After section 40 of the said Act, the following sections shall be inserted, namely :—

"40A. *Limitation of expenditure on commission.*—(*1*) No person shall pay or contract to pay to an insurance agent, and no insurance agent shall receive or contract to receive by way of commission or remuneration in any form in respect of any policy of life insurance issued in India by an insurer after the 31st day of December, 1949, and effected through an insurance agent, an amount exceeding—

(*a*) where the policy grants an immediate annuity or a deferred annuity in consideration of a single premium, or where only one premium is payable on the policy, two per cent of that premium.

(*b*) where the policy grants a deferred annuity in consideration of more than one premium, seven and a half per cent of the first year's premium, and two per cent of each renewal premium, payable on the policy, and

(*c*) in any other case, thirty-five per cent of the first year's premium, seven and a half per cent of the second and third year's renewal premium, and thereafter five per cent of each renewal premium payable on the policy :

Provided that in a case referred to in clause (*c*), an insurer, during the first ten years of his business, may pay to an insurance agent, and an insurance agent may receive from such an insurer forty per cent of the first year's premium payable on the policy.

(*2*) No payment made by the insurer for the benefit of an insurance agent to a contributory provident fund maintained by the insurer under a scheme approved by the Controller-General shall be taken into account in computing any amount specified in sub-section (*1*).

(*3*) No person shall pay or contract to pay to a special agent, and no special agent shall receive, or contract to receive by way of commission or as remuneration in any form, in respect of any policy of life insurance issued in India by an insurer after the 31st day of December, 1949, and effected through a special agent an amount exceeding—

(*a*) in a case referred to in clause (*a*) of sub-section (*1*), one-half per cent, of the premium.

(*b*) in a case referred to in clause (*b*) of sub-section (*1*), two per cent of the first year's premium payable on the policy, and

(*c*) in a case referred to in clause (*c*) of sub-section (*1*), fifteen per cent of the first year's premium payable on the policy :

Provided that in a case referred to in clause (*c*), an insurer, during the first ten years of his business, may pay to a special agent, and a special agent may receive from such an insurer, seventeen and a half per cent of the first year's premium payable on the policy.

(*4*) No person shall pay or contract to pay to an insurance agent, and no insurance agent shall receive or contract to receive by way of commission or remuneration in any form, in respect of any policy of insurance (not being a policy of life insurance) issued in India by an insurer after the 31st day of December, 1949, and effected through an insurance agent, an amount exceeding—

(*a*) where the policy relates to fire or miscellaneous insurance, fifteen per cent of the premium payable on the policy, and

(*b*) where the policy relates to marine insurance, ten per cent of the premium payable on the policy.

(*5*) No person shall pay or contract to pay to a principal agent, and no principal agent shall receive or contract to receive, by way of commission or remuneration in any form, in respect of any policy of insurance (not being a policy of life insurance) issued in India by an insurer after the 31st day of

December, 1949, and effected through a principal agent, an amount exceeding—

(*a*) in the case referred to in clause (*a*) of sub-section (*4*), twenty per cent of the premium payable on the policy, and

(*b*) in the case referred to in clause (*b*) of that sub-section, fifteen per cent of the policy, less any commission payable to any insurance agent in respect of the said policy.

(*6*) Without prejudice to the provisions of section 102 in respect of a contravention of any of the provisions of the preceding sub-sections by an insurer, any insurance agent who contravenes the provisions of sub-section (*1*) or sub-section (*4*) and any special agent who contravenes the provisions of sub-section (*3*) shall be punishable with fine which may extend to one hundred rupees.

40B. *Limitation of expenses of management in life insurance business.*—(*1*) Every insurer transacting life insurance business in India shall furnish to the Controller-General, within such time as may be prescribed,—

(*a*) statements certified by an actuary of the bases of premiums currently used by him in regard to new business in respect of mortality, rate of interest, expenses and bonus loading;

(*b*) similar statements in respect of all premiums received by him:

Provided that an insurer may elect to submit on or before the 31st day of March every year a certificate from an actuary, in lieu of the statements specified in clause (*b*), giving the average provision for expenses of management provided in the premiums received by him during the preceding calendar year in respect of the life insurance business transacted by him in India.

(*2*) After the 31st day of December, 1949, no insurer shall in respect of the life insurance business transacted by him in India spend as expenses of management in any calendar year an amount in excess of the provision for expenses of management contained in the premiums received by him in that year as is based on the statements or the certificate specified in sub-section (*1*):

Provided that where an insurer has spent as such expenses in any year an amount in excess of the amount permissible under this sub-section, he shall not be deemed to have contravened the provisions of this section, if the excess amount so spent is within the limits fixed in respect of the year by the Executive Committee of the Life Insurance Council under

section 64K by which the actual expenses incurred may exceed the provision for expenses of management.

(3) In respect of any statement mentioned in sub-section (1), the Controller-General may require that it shall be submitted to another actuary appointed by the insurer for the purpose and approved by the Controller-General, for certification by him, whether with or without modifications, and the provision for expenses of management shall be modified, if necessary, according to the certificate furnished by the other actuary appointed under this sub-section.

(4) Every insurer shall, in respect of the life insurance business transacted by him in India, submit along with his annual returns furnished under section 15 or section 16, as the case may be, a statement certified by the principal officer of the insurer and by the auditor or an actuary of the total provision for expenses of management contained in the premiums taken credit for in the revenue account for the preceding calendar year and the total expenses of management as stated in the revenue account.

(5) Every insurer transacting life insurance business in India shall incorporate in the revenue account—

(a) a certificate signed by a principal officer in India, and an auditor's certificate, certifying that all expenses of management in respect of life insurance business transacted by the insurer in India have been fully debited in the revenue account as expenses; and

(b) if the insurer is carrying on any other class of insurance business in addition to life insurance business an auditor's certificate certifying that all charges incurred in respect of his life insurance business and in respect of his business other than life insurance business have been fully debited in the respective revenue accounts.

Explanation.—In this section,—

(a) "calendar year" or "year" means, in relation to an insurer who is required to furnish returns in accordance with sub-section (2) of section 16, the period covered by the revenue account furnished by such insurer under clause (b) of that sub-section;

(b) "expenses of management" means all charges wherever incurred whether directly or indirectly, and includes—

(i) commission payments of all kinds.

(ii) any amount of expenses capitalised.

(*iii*) in the case of an insurer having his principal place of business outside India, a proper share of head office expenses which shall not be less than such percentage as may be prescribed of the total premiums (less reinsurances) received during the year in respect of life insurance business transacted by him in India.

40C. *Limitation of expenses of management in General insurance business.*—(*1*) After the 31st day of December, 1919, no insurer shall, in respect of any class of general insurance business transacted by him in India, spend in any calendar year as expenses of management, including commission or remuneration for procuring business, an amount in excess of the limits fixed by the Executive Committee of the General Insurance Council under sub-section (*1*) of section 64M :

Provided that where an insurer has spent as such expenses in any year an amount in excess of the amount permissible under this sub-section, he shall not be deemed to have contravened the provisions of this section, if the excess amount so spent is within the limits, fixed in respect of the year by the Executive Committee of the General Insurance Council under sub-section (*2*) of section 64M, by which the actual expenses incurred may exceed the expenses permissible under sub-section (*1*).

(*2*) Every insurer as aforesaid shall incorporate in the revenue account a certificate signed by the principal officer of the insurer in India and by an auditor certifying that all expenses of management wherever incurred, whether directly or indirectly, in respect of the business referred to in this section, have been fully debited in the revenue account as expenses.

Explanation.—In this section, —

(*a*) "calendar year" shall have the meaning assigned to it in section 40B ;

(*b*) "expenses of management" means all charges, wherever incurred whether directly or indirectly, including commission payments of all kinds and, in the case of an insurer having his principal place of business outside India, a proper share of head office expenses, which shall not be less than such percentage as may be prescribed, of his gross premium income (that is to say, the premium income without taking into account premiums on reinsurance ceded or accepted) written direct in India during the year ;

(*c*) "insurance business transacted in India" includes insurance business, wherever effected, relating to any property situate in India or to any vessel or aircraft registered in India."

32. Amendment of section 42, Act IV of 1938.—In section 42 of the said Act,—

(*a*) in sub-section (*1*), for the words "three rupees", the words "ten rupees" shall be substituted;

(*b*) in sub-section (*2*), the word "registered" shall be omitted;

(*c*) for sub-section (*3*), the following shall be substituted, namely:—

"(*3*) A licence issued under this section, after the commencement of the Insurance (Amendment) Act, 1949, shall remain in force for a period of three years only from the date of issue, but shall, if the applicant does not suffer from any of the disqualifications mentioned in items (*b*), (*c*) and (*d*) of sub-section (*4*) and the application for renewal of the licence reaches the issuing authority at least thirty days before the date on which the licence ceases to remain in force, be renewed for a period of three years at any one time on payment of the prescribed fee which shall not be more than ten rupees, and an additional fee of a prescribed amount, not exceeding three rupees by way of penalty, if the application for renewal of the licence does not reach the issuing authority at least thirty days before the date on which the licence ceases to remain in force:

Provided that no application for the renewal of a licence shall be entertained if the application does not reach the issuing authority before the licence ceases to remain in force."

33. Insertion of new sections 42A, 42B and 42C in Act IV of 1938.—After section 42 of the said Act, the following sections shall be inserted, namely:—

"42A. *Registration of principal agents, chief agents and special agents.*—(*1*) The Controller-General or an officer authorised by him in this behalf shall, in the prescribed manner and on payment of the prescribed fee, which shall not be more than twenty-five rupees for a principal agent or a chief agent and ten rupees for a special agent, register any person who makes an application to him in the prescribed manner if,—

(*a*) in the case of an individual, he does not suffer from any of the disqualifications mentioned in sub-section (*4*) of section 42, or

(*b*) in the case of a company or firm, any of its directors or partners does not suffer from any of the said disqualifications,

and a certificate to act as a principal agent, chief agent or

special agent, as the case may be, for the purpose of procuring insurance business shall be issued to him.

(*2*) A certificate issued under this section shall entitle the holder thereof to act as a principal agent, chief agent or special agent, as the case may be, for any insurer.

(*3*) A certificate issued under this section shall remain in force for a period of twelve months only from the date of issue, but shall, on application made in this behalf, be renewed from year to year on production of a certificate from the insurer concerned that the provisions of clauses *2* and *3* of Part A of the Sixth Schedule in the case of a principal agent, the provisions of clauses 2 and 4 of Part B of the said Schedule in the case of a chief agent, and the provisions of clauses *2* and *3* of Part C of the said Schedule in the case of a special agent, have been complied with, and no payment of the prescribed fee, which shall not be more than twenty-five rupees, in the case of a principal agent or a chief agent, and ten rupees in the case of a special agent, and an additional fee of the prescribed amount not exceeding five rupees by way of penalty, in cases where the application for renewal of the certificate does not reach the issuing authority before the date on which the certificate ceases to remain in force :

Provided that, where the applicant is an individual, he does not suffer from any of the disqualifications mentioned in clauses (*b*) to (*d*) of sub-section (*4*) of section 42, and, where the applicant is a company or a firm, any of its directors or partners does not suffer from any of the said disqualifications.

(*4*) Where it is found that the principal agent, chief agent or special agent being an individual is, or being a company or firm contains a director or partner who is, suffering from any of the disqualifications mentioned in sub-section (*4*) of section 42, without prejudice to any other penalty to which he may be liable, the Controller-General shall, and where a principal agent, chief agent or special agent has contravened any of the provisions of this Act may, cancel the certificate issued under this section to such principal agent, chief agent or special agent.

(*5*) The authority which issued any certificate under this section may issue a duplicate certificate to replace a certificate lost, destroyed or mutilated on payment of the prescribed fee, which shall not be more than two rupees.

(*6*) Any person who acts as a principal agent, chief agent or special agent, without holding a certificate issued under this section to act as such, shall be punishable with fine which may extend to five hundred rupees, and any insurer or any person acting on behalf of an insurer, who appoints as a principal agent, chief agent or special

agent any person not entitled to act as such or transacts any insurance business in India through any such person, shall be punishable with fine which may extend to one thousand rupees.

(7) Where the person contravening sub-section (6) is a company or a firm, then, without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or any other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be punishable with fine which may extend to five hundred rupees.

(8) The provisions of sub-sections (6) and (7) shall not take effect until the expiry of six months from the commencement of the Insurance (Amendment) Act, 1949.

42B. *Regulation of employment of principal agents.*—(1) Every contract between an insurer carrying on general insurance business in India and a principal agent shall be in writing and shall specify the area for which the principal agent is appointed, and the terms contained in Part A of the Sixth Schedule shall be deemed to be incorporated in and form part of every such contract.

(2) No principal agent shall, either directly or through insurance agents, procure any general insurance business for the insurer in any area outside the area for which he has been appointed, or in any area for which another principal agent has been appointed, or in any area in which the head office or any branch office of the insurer is operating, and neither the head office nor any branch office of the insurer shall operate in any area for which a principal agent has been appointed.

(3) Within sixty days of the commencement of the Insurance (Amendment) Act, 1949, every principal agent shall file with the insurer concerned a full list of insurance agents employed by him indicating the terms of the contract between the principal agent and each of such insurance agents, and, if any principal agent fails to file such a list within the period specified, any commission payable to such principal agent on premiums received from the date of expiry of the said period of sixty days until the date of the filing of the said list shall, notwithstanding anything in any contract to the contrary, cease to be so payable.

(4) A certified copy of every contract as is referred to in sub-section (1) shall be furnished by the insurer to the Controller-General within thirty days of his entering into such contract and intimation of any change in any such contract shall be furnished by the insurer with full particulars thereof to the Controller-General within thirty days of the making of any such change.

(5) If the commission due to any insurance agent in respect of any general insurance business procured by such agent is not paid by the

principal agent for any reason, the insurer may pay the insurance agent the commission so due and recover the amount so paid from the principal agent concerned.

(*6*) Every contract as is referred to in sub-section (*1*), subsisting at the commencement of the Insurance (Amendment) Act, 1949, shall, with respect to terms regarding remuneration, be deemed to have been so altered as to be in accordance with the provisions of sub-section (*5*) of section 40A.

(*7*) If any dispute arises as to whether a person is or was a principal agent, the matter shall be referred to the Controller-General, whose decision shall be final.

(*8*) Every insurer shall maintain a register in which the name and address of every principal agent appointed by him, the date of such appointment and the date, if any, on which the appointment ceased shall be entered.

42C. *Regulation of employment of chief agents and special agents.*—(*1*) Every contract between an insurer carrying on life insurance business in India and a chief agent shall be in writing, and shall specify the area (not being less in extent than a district or the equivalent thereof) for which the chief agent is appointed, and the terms contained in Part B of the Sixth Schedule shall be deemed to be incorporated in and form part of every such contract.

(*2*) No chief agent shall, either directly or through insurance agents or special agents employed by or through him, procure life insurance business for the insurer in any area outside the area for which he has been appointed or in any area for which another chief agent has been appointed or in any area in which the head office or any branch office of the insurer is operating, and neither the head office nor any branch office of the insurer shall operate in any area for which a chief agent has been appointed :

Provided that nothing in this sub-section shall be deemed to prohibit the head office of an insurer which had been operating at the commencement of the Insurance (Amendment) Act, 1949, for a period of not less than ten years before such commencement within the municipal limits of any town where the head office is situate, and a chief agent who, in pursuance of an agreement in writing had been operating for a similar period within such limits, from continuing to operate within the said limits;

Provided further that nothing in this sub-section shall be deemed to prohibit an insurance agent from procuring life insurance business in or from any area and submitting the proposals direct to the principal office of the insurer in India.

(*3*) Within sixty days of the commencement of the Insurance (Amendment) Act, 1949, every chief agent shall file with the insurer

concerned a full list of the insurance agents employed by him, indicating the terms of the contract between the chief agent and each of such insurance agents and the business secured by each of such agents which is still in force, and if any chief agent fails to file such a list within the period specified, any commission payable to such chief agent on premiums received from the date of the expiry of the said period of sixty days until the date of the filing of the said list shall, notwithstanding anything in any contract to the contrary, cease to be so payable.

(*4*) On the death or insolvency of the chief agent or the termination of the contract with him, the insurance agents working under him shall be deemed to have been directly appointed as agents of the insurer, and the renewal commission in respect of all future premiums on policies effected through such agents shall be paid to them direct by the insurer.

(*5*) Every contract between an insurer carrying on life insurance business in India and a special agent, or between a chief agent of such insurer and a special agent, shall be in writing and the terms contained in Part C of the Sixth Schedule shall be deemed to be incorporated in, and form part of every such contract.

(*6*) A certified copy of every contract as is referred to in sub-section (*1*) or sub-section (*5*) shall be furnished by the insurer to the Controller-General within thirty days of his entering into such contract, and intimation of any change in any such contract shall be furnished by the insurer with full particulars thereof to the Controller-General within thirty days of the making of any such change.

(*7*) No such contract as is referred to in sub-section (*1*) or sub-section (*5*) shall be entered into or renewed for a period exceeding ten years at any one time, and, notwithstanding the terms of any contract to the contrary, no option to renew any such contract given to any of the parties shall be enforceable without the consent of the other.

(*8*) Every such contract as is referred to in sub-section (*1*) or sub-section (*5*) subsisting at the commencement of the Insurance (Amendment) Act, 1949, shall terminate on the 31st day of December 1949, if it has not terminated earlier :

Provided that if any party to a contract, which has been prematurely terminated by the operation of this sub-section, so requires, the other party shall enter into a fresh contract with him for the unexpired period, not exceeding ten years of the terminated contract and the terms of such fresh contract shall—

(*i*) as respects remuneration, whether in respect of business already procured or in respect of business to be procured thereafter,

be such as may be mutually agreed upon between the parties;

(*ii*) be deemed to include all the terms specified in Part B or Part C of the Sixth Schedule, as the case may be;

(*iii*) as respects any other matter for which no provision is made either in this section or in the Sixth Schedule, be the terms of the terminated contract modified only to such extent, if any, as may be mutually agreed upon between the parties:

Provided further that in the event of any dispute as to the terms of the fresh contract, the matter shall be referred to arbitration.

(9) Nothing in this section shall be deemed to prevent any special agent from receiving any renewal commission on policies effected through him as an insurance agent at any time before his appointment as such special agent.

(10) If any dispute arises as to whether a person is or was a chief agent or a special agent for the purposes of this Act, the matter shall be referred to the Controller-General whose decision shall be final.

(11) Every insurer shall maintain a register in which the name and address of every chief agent appointed by him, the date on which the appointment was made and the date, if any, on which the appointment ceased shall be entered, and a separate register in which similar particulars relating to every special agent shall be entered, and every chief agent shall maintain a register in which similar particulars relating to every special agent appointed by him shall be entered."

34. Amendment of Section 44, Act IV of 1938.—For the provisos to section 44 of the said Act, the following proviso shall be substituted, namely:—

"Provided that—

(*a*) such agent ceases to act for the insurer concerned after the Central Government has notified in the official Gazette that it is satisfied that the circumstances in which the said insurer is placed are such as to justify the agents ceasing to act for him; or

(*b*) such agent has served the insurer continually and exclusively for at least seven years, and policies assuring a total sum of not less than one hundred and fifty thousand rupees effected through him for the insurer were in force on a date one year before his ceasing to act as such agent for the insurer, and that the renewal premium income on policies so effected has not fallen at any time after his ceasing to act as such below forty per cent, of the premiums due on policies effected through him and in force at the time of his ceasing to act as such agent, but excluding such of those policies as may have become claims by maturity; or

(*c*) such agent has served the insurer continually and exclusively for at least ten years, and after his ceasing to act as such agent he does not directly or indirectly solicit or procure insurance business for any other person."

35. Insertion of new Section 44A in Act IV of 1938—After section 44 of the said Act and before the heading " Special Provisions of Law," the following section shall be inserted, namely :—

" 44A. *Power to call for information.*—For the purposes of ensuring compliance with the provisions of sections 40A, 40B, 40C, 42B and 42C the Controller-General may by notice—

(*a*) require from an insurer, principal agent, chief agent or special agent such information, certified if so required by an auditor or actuary, as he may consider necessary;

(*b*) require an insurer, principal agent, chief agent or special agent to submit, for his examination at the principal place of business in the Provinces, any book of account, register or other document, or to supply any statement which may be specified in the notice;

(*c*) examine any officer of an insurer or a principal agent, chief agent or special agent on oath, in relation to any such information, book, register, document or statement and administer the oath accordingly;

and an insurer, principal agent, chief agent or special agent shall comply with any such requirement within such time as may be specified in the notice."

36. Amendment of Section 47, Act IV of 1938.—In sub-section (1) of Section 47 of the said Act, the words " before the expiry of nine months from the date of the maturing of the policy or, where the circumstances are such that the insurer cannot be immediately aware of such maturing, from the date on which notice of such maturing is given to the insurer " shall be omitted.

37. Insertion of new Section 47A in Act IV of 1938.—After section 47 of the said Act, the following section shall be inserted, namely :—

" 47A. *Claims on small life insurance policies.*—(*1*) In the event of any dispute relating to the settlement of a claim on a policy of life insurance assuring a sum not exceeding two thousand rupees exclusive of any profit or bonus not being a guaranteed profit or bonus issued by an insurer in respect of insurance business transacted in the Provinces, arising between the holder of such policy and the insurer who issued the policy or has otherwise assumed liability in respect thereof, the dispute may, at the option of the policy-holder be referred to the Controller-General for decision, and the Controller-General shall, after giving an opportunity to the parties to be heard and after

making such further inquiries as he may think fit, decide the matter.

(2) The decision of the Controller-General under this sub-section shall be final and shall not be called in question in any Court, and may be executed by the Court which would have been competent to decide the dispute if it had not been referred to the Controller-General as if it were a decree passed by that Court."

38 Amendment of Section 48, Act IV of 1938.—In section 48 of the said Act,—

(*i*) in sub-section (*1*) after the words "directors of the company" the words "the number to be elected not being less than two in any case" shall be inserted;

(*ii*) for sub-section (*2A*), the following sub-section shall be substituted, namely:—

(*2A*) A person shall be ineligible for election as a director under sub-section (*1*) of any company—

(*a*) if he is a director, officer, employee or legal or technical adviser of that company or of any other insurer, or

(*b*) in the case of any person who had been in the employ of the insurer in any capacity other than as chief executive officer thereof, if five years have not elapsed from the date of his leaving the service of the insurer,

and shall cease, to be a director under sub-section (*1*), if after election he becomes subject to any disqualification specified in this sub-section or no longer holds the qualifications required by sub-section (*2*):

Provided that nothing in this sub-section shall disqualify a person who is an elected director under sub-section (*1*) and is not otherwise disqualified under this sub-section from being re-elected:";

(*iii*) in clause (*a*) of sub-section (*3*), for the words "provisions of this sub-section" the words "provisions of this section" shall be substituted.

39. Amendment of Section 48A, Act IV of 1938.—In section 48A of the said Act, for the words "no person acting on behalf of an insurer who, for the purpose of life insurance business employs insurance agents" the words "no chief agent or special agent" shall be substituted.

40. Insertion of new Section 48B in Act IV of 1938.—After section 48A of the said Act, the following section shall be inserted, namely:—

"48B. *Further provision regarding directors.*—An insurer specified in sub-clause (*b*) of clause (9) of section 2 and carrying on life

insurance business shall not have a common director with another such insurer:

Provided that this section shall not apply—

(*i*) in any case where one insurer is a subsidiary company of the other; or

(*ii*) in any case where, for the purpose of facilitating the amalgamation of two or more insurers or the transfer of the business of one insurer to another, the Central Government has, for such period, to such extent and subject to such conditions as may be specified, exempted any such insurer or insurers from the operation of this section."

41. Amendment of Section 49, Act IV of 1938.—(*1*) Section 49 of the said Act shall be renumbered as sub-section (*1*) thereof, and after the proviso to that sub-section, as so renumbered, the following further proviso shall be added, namely:—

"Provided further that the share of any such surplus allocated to or reserved for the shareholders (including any amount for the payment of dividends guaranteed to them, whether by way of first charge or otherwise) shall not exceed ten per cent of such surplus."

(*2*) After sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) For the purposes of sub-section (*1*), the actual amount of income-tax deducted at source during the period following the date as at which the last preceding valuation was made and preceding the date as at which the valuation in question is made may be added to such surplus after deducting an estimated amount for income-tax on such surplus, such addition and deduction being shown in paragraph 8(1) of the abstract prepared in accordance with Part II of the Fourth Schedule to this act."

42. Insertion of new Sections 52A to 52F in Act IV of 1938.—After section 52 of the said Act, the following heading and section shall be inserted, namely:—

MANAGEMENT BY ADMINISTRATOR.

"52A. *When Administrator for Management of Insurance may be appointed.*—(*1*) If at any time the Controller-General has reason to believe that an insurer carrying on life insurance business is acting in a manner likely to be prejudicial to the interests of holders of life insurance policies, he may after giving such opportunity to the insurer to be heard as he thinks fit, make a report thereon to the Central Government.

(2) The Central Government, if it is of opinion after considering the report that it is necessary or proper to do so, may appoint an Administrator to manage the affairs of the insurer under the direction and control of the Controller-General.

(3) The Administrator shall receive such remuneration as the Central Government may direct and the Central Government may at any time cancel the appointment and appoint some other person as Administrator.

(4) The management of the business of the insurer shall as on and after the date of appointment of the Administrator vest in such Administrator, but except with the leave of the Controller-General the Administrator shall not issue any further policies.

(5) As on and after the date of appointment of the Administrator any person vested with any such management immediately prior to that date shall be divested of that management.

(6) The Controller-General may issue such directions to the Administrator as to his powers and duties as he deems desirable in the circumstances of the case, and the Administrator may apply to the Controller-General at any time for instructions as to the manner in which he shall conduct the management of the business of the insurer or in relation to any matter arising in the course of such management.

52B. *Powers and duties of the Administrator.*—(1) The Administrator shall conduct the management of the business of the insurer with the greatest economy compatible with efficiency and shall, as soon as may be possible, file with the Controller-General a report stating which of the following courses is in the circumstances most advantageous to the general interests of the holders of life insurance policies, namely:—

(a) the transfer of the business of the insurer to some other insurer;

(b) the carrying on of its business by the insurer (whether with the policies of the business continued for the original sum insured with the addition of bonuses that attach to the policies or for reduced amounts);

(c) the winding up of the insurer; or

(d) such other course as he deems advisable.

(2) On the filing of the report with the Controller-General, the Controller-General may take such action as he thinks fit for promoting the interests of the holders of life insurance policies in general.

(3) Any order passed by the Controller-General under sub-section (2) shall be binding on all persons concerned, and shall have

effect notwithstanding anything in the memorandum or articles of association of the insurer, if a company.

52C. *Cancellation of contracts and agreements.*—The Administrator may, at any time during the continuance of his appointment with respect to an insurer and after giving an opportunity to the persons concerned to be heard, cancel or vary (either unconditionally or subject to such conditions as he thinks fit to impose) any contract or agreement (other than a policy) between the insurer and any other person which the Administrator is satisfied is prejudicial to the interests of holders of life insurance policies.

52D. *Termination of appointment of Administrator.*—If at any time, on a report made by the Controller-General in this behalf, it appears to the Central Government that the purpose of the order appointing the Administrator has been fulfilled or that for any reason it is undesirable that the order of appointment should remain in force, the Central Government may cancel the order and thereupon the Administrator shall be divested of the management of the insurance business which shall, unless otherwise directed by the Central Government, again vest in the person in whom it was vested immediately prior to the date of appointment of the Administrator.

52E. *Finality of decision appointing Administrator.*—Any order or decision of the Central Government made in pursuance of section 52A or section 52D shall be final and shall not be called in question in any Court.

52F. *Penalty for withholding documents or property from Administrator.*—If any director or officer of the insurer or any other person fails to deliver to the Administrator any books of account, registers or any other documents in his custody relating to the business of the insurer the management of which has vested in the Administrator, or retains any property of such insurer, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

52G. *Protection of action taken under sections* 52A *to* 52D.—(1) No suit, prosecution or other legal proceeding shall lie against an Administrator for anything which is in good faith done or intended to be done in pursuance of sections 52A to 52C inclusive.

(2) No suit or other legal proceeding shall lie against the Central Government or the Controller-General for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under section 52A, section 52B, or section 52D."

43. Amendment of section 55, Act IV of 1938.—In section 55 of the said Act, for the words "Sixth Schedule", wherever they occur, words "Seventh Schedule" shall be substituted.

44. Amendment of section 64, Act IV of 1938.—To section 64 of the said Act, the following words shall be added, namely :—

"and shall furnish to the Controller-General on or before the last day of January in every calendar year a certificate from an auditor to the effect that the said books of account, register and documents are being kept as required at the principal office of the insurer."

45. Insertion of new sections 64A to 64S in Act IV of 1938.—After section 64 and before Part III, the following Part and sections shall be inserted, namely :—

"PART IIA.

INSURANCE ASSOCIATION OF INDIA, COUNCILS OF THE ASSOCIATION AND COMMITTEES THEREOF.

64A. *Incorporation of the Insurance Association of India.*—(1) All insurers holding certificates of registration under this Act at the commencement of the Insurance (Amendment) Act, 1949, all insurers who may thereafter be granted certificates of registration under this Act, and, if the Central Government by notification in the official Gazette so declares, all provident societies holding certificates of registration under this Act or under the Provident Insurance Societies Act, 1912 (VI of 1912), on the date of such notification and all provident societies which may be granted certificates of registration under this Act after such date, are hereby constituted a body corporate by the name of the Insurance Association of India, and all such insurers and provident societies shall be known as members of that Association.

(2) The Insurance Association of India shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of all property, both movable and immovable, and shall by the said name sue and be sued.

64B. *Entry of names of members in the register.*—(1) The Controller-General shall take or cause to be taken through such agency as he thinks fit such steps as may be necessary to have the names of all insurers and provident societies, who or which are entitled to have their names entered in the register of members of the Insurance Association of India maintained for this purpose entered therein.

(2) Where any insurer or provident society has ceased to carry on business as such, the Controller-General shall cause such steps to be taken as may be necessary to have the name of such insurer or provident society, as the case may be, removed from the register of members.

64C. *Councils of the Insurance Association of India.*—There shall be two Councils of the Insurance Association of India, namely:—

(*a*) the Life Insurance Council consisting of all the members of the Association who carry on life insurance business in India, and

(*b*) the General Insurance Council consisting of all the members of the Association who carry on general insurance business in India.

64D. *Authority of members of Association to act through agents.*—It shall be lawful for any member of the Life Insurance Council or the General Insurance Council to authorise any individual, whether an officer of the insurer or not, to act as the representative of such member at any meeting of the Council concerned or to stand as a candidate for any election held by that Council.

64E. *Authorities of the Life Insurance Council and the General Insurance Council.*—(1) The authorities of the Life Insurance Council and the General Insurance Council shall be the Executive Committees, the Tariff Committee and the other Committees thereof constituted in the manner provided in this Part.

64F. *Executive Committees of the Life Insurance Council and the General Insurance Council.*—(1) The Executive Committee of the Life Insurance Council shall consist of the following persons, namely:—

(*a*) two officials nominated by the Central Government, one as the Chairman and the other as a member;

(*b*) eight representatives of insurers carrying on life insurance business elected in their individual capacity by the said insurers in such manner, from such groups of insurers and from such areas as may be specified by the Central Government;

(*c*) one non-official not connected with any insurance business, nominated by the Central Government; and

(*d*) four persons connected with insurance business, nominated by the Central Government for the purpose of representing such groups of insurers carrying on life insurance business or such areas as have not been able to secure adequate representation on the Executive Committee of the Life Insurance Council or for any other purpose.

(2) The Executive Committee of the General Insurance Council shall consist of the following persons, namely:—

(*a*) two officials nominated by the Central Government, one as the Chairman and the other as a member;

(*b*) nine representatives of insurers carrying on general insurance business elected in their individual capacity by the said

insurers in such manner, from such groups and from such areas as may be specified by the Central Government;

(*c*) one non-official not connected with any insurance business, nominated by the Central Government; and

(*d*) three persons connected with insurance business, nominated by the Central Government for the purpose of representing such groups of insurers carrying on general insurance business or such areas as have not been able to secure adequate representation on the Executive Committee of the General Insurance Council or for any other purpose.

(3) If any body of persons specified in sub-sections (1) and (2) fails to elect any of the members of the Executive Committees of the Life Insurance Council or the General Insurance Council, the Central Government may nominate any person to fill the vacancy, and any person so nominated shall be deemed to be a member of the Executive Committee of the Life Insurance Council or the General Insurance Council, as the case may be, as if he had been duly elected thereto.

(4) Each of the Executive Committees of the Life Insurance Council and the General Insurance Council may, with the approval of the Central Government, make bye-laws for the transaction of any business at any meeting of the said Committee, and any such bye-law may provide that any member of the Committee who is interested in any matter for the time being before that Committee may not be present at, or take part in, any meeting thereof.

(5) Any decision of the Executive Committee of the Life Insurance Council or of the General Insurance Council shall be subject to the approval of the Controller-General, and on such approval shall be final and shall not be questioned in any manner.

(6) The Life Insurance Council or the General Insurance Council may form such other committees consisting of such persons as it may think fit to discharge such functions as may be delegated thereto:

Provided that any action taken by any of the said Councils under this sub-section shall be with the previous consent of the Central Government, and nothing in this sub-section shall derogate from any of the powers vested in the Executive Committees.

(7) The Secretary of the Executive Committee of the Life Insurance Council and of the Executive Committee the General Insurance Council shall in each case be an official nominated by the Central Government.

64G. *Resignation and filling up of casual vacancies.*—(1) Any member of the Executive Committee of the Life Insurance Council or of the General Insurance Council may resign his membership of the Committee by notice in writing addressed to the Chairman of the Committee to that effect.

(2) Casual vacancies in the Executive Committee of the Life Insurance Council or of the General Insurance Council, whether caused by resignation, death or otherwise, shall be filled by nomination by the Central Government, and any person so nominated to fill the vacancy shall hold office until the dissolution of the Committee to which he has been nominated.

(3) No act of the Executive Committee of the Life Insurance Council or of the General Insurance Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Committee concerned.

64H. *Duration and dissolution of Executive Committees.*—(1) The duration of the Executive Committee of the Life Insurance Council or the General Insurance Council shall be three years from the date of its first meeting on the expiry of which it shall stand dissolved and a new Executive Committee constituted.

(2) Notwithstanding the dissolution of the Executive Committee of the Life Insurance Council or the General Insurance Council, the outgoing members thereof shall continue to hold office and discharge such administrative and other duties as may be prescribed until such time as a new Executive Committee of the Life Insurance Council or the General Insurance Council, as the case may be, shall have been constituted.

64I. *Power of Executive Committee of Life Insurance Council to hold examinations for insurance agents.*—The Life Insurance Council may, with the approval of the Central Government, authorise its Executive Committee to hold examinations for individuals wishing to qualify themselves as insurance agents for the purpose of procuring life insurance business, and, if the Central Government, by notification in the official Gazette, so declares, then, notwithstanding anything contained in section 42, only individuals who have passed any such examination shall be eligible to apply for a licence under section 42:

Provided that nothing in this sub-section shall affect the right of any individual, who has been licensed to act as an insurance agent under section 42 before the date of such notification, to act as such, or to have his licence renewed from time to time.

64J. *Functions of Executive Committee of Life Insurance Council.*—(1) The functions of the Executive Committee of the Life Insurance Council shall be—

(*a*) to aid, advise and assist insurers carrying on life insurance business in the matter of setting up standards of conduct and sound practice and in the matter of rendering efficient service to holders of life insurance policies;

(*b*) to control the expenses of insurers carrying on life insurance business in respect of their life insurance business in India;

(*c*) to bring to the notice of the Controller-General the case of any insurer acting in a manner prejudicial to the interests of holders of life insurance policies;

(*d*) to act in any matter incidental or ancillary to any of the matters specified in clauses (*a*) to (*c*) as, with the approval of the Central Government, may be notified by the Life Insurance Council in the Gazette of India.

(*2*) For the purpose of enabling it effectively to discharge its functions, the Executive Committee of the Life Insurance Council may collect such sums of money, whether by way of fees or otherwise, as may be prescribed from all members of the Insurance Association of India who carry on life insurance business.

64K. *Power of Executive Committee of Life Insurance Council to control expenses.*— (*1*) The Executive Committee of the Life Insurance Council shall meet at least once before the 31st day of March every year and fix, with the approval of the Controller-General, the limits by which the actual expenses incurred by an insurer carrying on life insurance business in respect of such business in the preceding year may exceed the provision for expenses contained in the premiums received by him during such preceding year.

(*2*) In fixing any limits under sub-section (*1*), the Executive Committee of the Life Insurance Council shall have due regard to the conditions obtaining in life insurance business generally during that year and different limits may be fixed for different groups of insurers.

(*3*) Where an insurer is guilty of contravening the provisions of section 40B with respect to the expenses of management, the Executive Committee of the Life Insurance Council may, after giving him an opportunity of being heard, report the matter to the Controller-General for such action as is specified in sub-sections (*4*) to (*8*).

(*4*) On receipt of any report under sub-section (*3*), the Controller-General may administer a warning or warnings to the insurer.

(*5*) Where within a period of seven years two warnings have been given to an insurer under sub-section (*4*) and they have been disregarded by him; the Controller-General may cause an investigation and valuation, as at such date as the Controller-General may specify, to be made at the expense of the insurer by an actuary appointed by the insurer for this purpose and approved by the Controller-General, and the insurer shall place at the disposal of the said actuary all the materials required by him for the purpose of such investigation and valuation, within such period, not being less than three months, as the Controller-General may specify.

(*6*) The provisions of sub-sections (*1*) and (*4*) of section 13 and of sub-sections (*1*) and (*2*) of section 15, or, as the case may be, of

sub-section (2) of section 16 shall apply in relation to an investigation and valuation under this section:

Provided that the abstract and statement prepared as the result of such investigation and valuation shall be furnished by such date as the Controller-General may specify.

(7) There shall be appended to every such abstract a statement signed by the actuary giving such information as may be prescribed.

(8) On receipt of the abstract and statement furnished in accordance with sub-section (6), the Controller-General may take such action as may be prescribed.

64L. *Functions of Executive Committee of General Insurance Council.*—(1) The functions of the Executive Committee of the General Insurance Council shall be—

(a) to aid and advise insurers, not exclusively carrying on life insurance business, in the matter of setting up standards of conduct and sound practice and in the matter of rendering efficient service to holders of policies other than policies of life insurance;

(b) to control the expenses of such insurers carrying on business in India in the matter of commission and other expenses;

(c) to bring to the notice of the Controller-General the case of any such insurer acting in a manner prejudicial to the interest of holders of insurance policies (other than policies of life insurance);

(d) to act in any matter incidental or ancillary to any of the matters specified in clauses (a) to (c) as with the approval of the Central Government may be notified by the General Insurance Council in the Gazette of India.

(2) For the purpose of enabling it effectively to discharge its functions, the Executive Committee of the General Insurance Council may collect such fees as may be prescribed from all insurers carrying on general insurance business.

64M. *Power of Executive Committee of General Insurance Council to control expenses.*—(1) The Executive Committee of the General Insurance Council shall meet as soon as may be after it has been constituted under section 64F and fix, with the approval of the Controller-General, the limits of expenses of management including expenses on commission, in respect of the general insurance business carried on by insurers, and any limits so fixed shall have effect from the 1st day of January, 1950.

(2) The Executive Committee of the General Insurance Council shall meet at least once before the 31st day of March every year and may, having due regard to the conditions obtaining in the insurance

business in the preceding year, fix with the approval of the Controller-General the limits by which the actual expenses of management incurred by an insurer carrying on general insurance business in respect of his general insurance business in the preceding year may exceed the expenses permissible under sub-section (*1*) and different limits may be fixed for different insurers.

(*3*) Where an insurer is guilty of contravening the provisions of section 40C with respect to the expenses of management, the Executive Committee of the General Insurance Council may, after giving him an opportunity of being heard, report the matter to the Controller-General for such action as is specified in sub-sections (*4*) and (*5*).

(*4*) On receipt of any report under sub-section (*3*), the Controller-General may administer a warning or warnings to the insurer.

(*5*) Where in any case two warnings given to an insurer under sub-section (*4*) have been disregarded by him, the Controller-General may take such action against the insurer as may be prescribed.

64N. *Power of General Insurance Council to regulate rates of insurance, etc.*—(*1*) The General Insurance Council may, by regulations made in this behalf and approved by the Central Government, control and regulate the rates, advantages, terms and conditions that may be offered by its members in respect of general insurance business, and all such regulations shall be binding on all its members.

(*2*) Any regulation made under sub-section (*1*) may delegate to a Tariff Committee, appointed for such period and consisting of such persons as may specified in such regulations, any power of control and regulation vested in the General Insurance Council.

(*3*) Where an insurer is guilty of contravening any regulation made under sub-section (*1*) by which he is bound, the Tariff Committee, if any, appointed under sub-section (*2*) may take such disciplinary action against him as may be prescribed.

(*4*) The Central Government may prescribe the cases in which an appeal shall lie in respect of any action taken under sub-section (*3*), and any such appeal shall be preferred to the Central Government within thirty days of the date on which such action was taken.

(*5*) The General Insurance Council shall meet at least once a year to review the work done by the Tariff Committee appointed under sub-section (*2*).

(*6*) For the purpose of enabling the Tariff Committee to effectively discharge its functions under this section, the General Insurance Council may, by regulations made in his behalf and approved by the Central Government, fix the amount of fees payable by insurers carrying on general insurance business, and the Tariff Committee appointed under sub-section (*2*) may collect such fees either directly or through Regional Council constituted as hereinafter provided.

Explanation.—For the purposes of section 64N, section 64O and section 64P, the Central Government may, by notification in the official Gazette, specify that any insurer or class of insurers, shall not be deemed to be included amongst insurers carrying on general insurance business, any insurer so specified shall not take part in any meeting of the General Insurance Council in which any discussion of any matter dealt with in the said sections takes place.

64O. *Regional Councils.*—(*1*) The General Insurance Council may constitute such Regional Councils as and when it deems fit for one or more of the prescribed regions.

(*2*) Each Regional Council shall consist of seven persons elected by such groups of insurers carrying on general insurance business in the region as may be prescribed.

64P. *Functions of the Regional Councils.*—(*1*) The Regional Councils shall perform such functions as may be delegated to them by the General Insurance Council.

(*2*) For the purpose of enabling it effectively to discharge its duties, any Regional Council may in the prescribed manner constitute such Committees thereof as it may think fit, whether consisting of members of the Regional Council or otherwise.

(*3*) Where in the exercise of any functions delegated to it under this section, any Regional Council or any Committee thereof restrains a principal agent or an insurance agent from procuring or causing to be procured general insurance business from any area, any such principal agent or insurance agent may appeal to the Central Government within such time as may be prescribed and the Central Government may pass such orders thereon as it thinks fit.

64Q. *General powers of Life Insurance Council and General Insurance Council.*—(*1*) For the efficient performance of its duties, the Life Insurance Council or the General Insurance Council, as the case may be, may—

(*a*) appoint such officers and servants as may be necessary and fix the conditions of their service;

(*b*) determine the manner in which any prescribed fee may be collected;

(*c*) keep and maintain up to date a copy of the list of all insurers who are members of the Insurance Association of India;

(*d*) with the previous approval of the Central Government, make regulations for—

(*i*) the holding of elections other than the first election;

(*ii*) the summoning and holding of meetings, the conduct of business thereat and the number of members necessary to form a quorum;

(*iii*) the submission by insurers to the Executive Committee of the Life Insurance Council or the General Insurance Council of such statements of information as may be required of them and the submission of copies thereof by the insurers to the Controller-General;

(*iv*) the levy and collection of any fees;

(*v*) the regulation of any other matter which may be necessary for the purpose of enabling it to carry out its duties under this Act.

(*2*) The Life Insurance Council or the General Insurance Council may authorise the Executive Committee concerned or the Tariff Committee appointed under section 64N to execise any of the powers conferred on the Life Insurance Council or the General Insurance Council, as the case may be, under clause (*a*), clause (*b*) or clause (*c*) of sub-section (*1*).

64R. *Power of Central Government to remove difficulties.*—The Central Government may exercise such powers as may be necessary for bringing the Life Insurance Council, the General Insurance Council or the Executive Committee of any of the said councils, as the case may be, into effective existence for the purposes of this Part, and any such powers shall include—

(*a*) the power to hold, in such manner as may be directed by the Central Government, the first elections to the Executive Committees of the Life Insurance Council and the General Insurance Council;

(*b*) where a notification under sub-section (*1*) of section 64A has been issued declaring provident societies to be members of the Insurance Association of India, the power to associate provident societies effectively in the exercise of all powers and the discharge of all functions of the Life Insurance Council and the Executive Committee thereof;

(*c*) the power to make the provisions of section 40B applicable to the provident societies specified in clause (*b*) in the same manner as they apply to insurers.

64S. *Power to exempt.*—The Central Government may, subject to such conditions and restrictions as it may think fit to impose, exempt any insurer specified in sub-clause (*c*) of clause (*9*) of section 2 from the operation of all or any of the provisions of this Part."

46. **Amendment of section 65, Act IV of 1938.**—In sub-section (1) of section 65 of the said Act, for the words "nine hundred" the words "one thousand" shall be substituted.

47. Insertion of new section 65A in Act IV of 1938.—After section 65 of the said Act, the following section shall be inserted, namely :—

"65A. *Prohibition of transaction of insurance business by provident societies other than public companies or co-operative societies.*—No person shall, after the commencement of the Insurance (Amendment) Act, 1949, begin to carry on any business specified in sub-section (*1*) of section 65, and no provident society carrying on any such business in the Provinces shall, after the expiry of one year from such commencement, continue to carry on any such business, unless he or it is—

(*a*) a public company, or

(*b*) a society registered under the Co-operative Societies Act, 1912 (II of 1912) or under any other law for the time being in force in any Province of India relating to co-operative societies, or

(*c*) a body corporate incorporated under the law of any country or State outside the Provinces of India."

48. Omission of section 68, Act IV of 1938.—Section 68 of the said Act shall be omitted.

49. Amendment of section 70, Act IV of 1938.—In section 70 of the said Act,—

(*1*) in sub-section (*3*), for the figures "67" the figures and letter "65A, 67" shall be substituted;

(*2*) in sub-section (*4*),—

(*i*) at the end of sub-clause (*ii*) of clause (*a*), the word "or" shall be inserted;

(*ii*) clause (*b*) shall be omitted; and

(*iii*) after clause (*a*) of the second proviso, the following clause shall be inserted, namely:—

"(*aa*) cancel the registration of a provident society if any deposit required by section 73, has not been made, or".

50. Amendment of section 71, Act IV of 1938.—In section 71 of the said Act,—

(*i*) for the words, figures and letter "sections 20, 32, 46 and 53A" the words, figures, brackets and letters "sub-sections (*2*) and (*3*) of section 10, section 20, sub-section (*1*) of section 27, sections 27A, 28, 29, 31A, 31B, 32, 46 and 53A" shall be substituted;

(*ii*) after the words "members of a provident society" the words and figures "and references to section 7 or section 98 shall be construed as references to section 73" shall be inserted.

51. Amendment of section 82, Act IV of 1938.—To sub-section (*2*) of section 82 of the said Act, the following proviso shall be added, namely :—

"Provided that the Central Government may in any case extend the time allowed by this sub-section for the furnishing of such return by a period not exceeding three months."

52. Amendment of section 85, Act IV of 1938.—In section 85 of the said Act, sub-section (*1*) shall be omitted.

53. Amendment of section 91, Act IV of 1938.—In sub-section (*1*) of section 91 of the said Act,—

(*i*) the word "and" at the end of the clause (*f*) shall be omitted; and

(*ii*) after clause (*g*) the following clause shall be inserted, namely:—

"(*h*) to sell the immovable and movable property of the society by public auction or private contract, with power to transfer the whole thereof to any person or society or to sell the same in parcels."

54. Amendment of section 92, Act IV of 1938.—In section 92 of the said Act,—

(*1*) In sub-section (*4*)—

(*i*) for the words "the Superintendent of Insurance shall appoint a suitable person," the words "the Controller-General may, if he thinks fit, appoint a suitable person" shall be substituted; and

(*ii*) for the words "and if so desired, shall also appoint a committee of inspection," the words "and if he considers it desirable, may also appoint a committee of inspection" shall be substituted.

(*2*) In sub-section (*11*) after the words "forwarded by the liquidator" the words "within one week after the meeting" shall be inserted.

55. Amendment of section 94, Act IV of 1938.—In section 94 of the said Act, sub-section (*2*) shall be omitted.

56. Amendment of section 98A, Act IV of 1938.—In section 98A of the said Act, the words, figures and brackets "so however that in such application the references in the second proviso to sub-section (*1*) of the said section to the commencement of this Act shall be construed as references to the commencement of the Insurance (Amendment) Act, 1946" shall be omitted.

57. Amendment of section 100, Act IV of 1938.—In section 100 of the said Act, for the words "publish such notices or documents" the words "publish such notice together with a summary in the prescribed form of the balance-sheet and revenue account" shall be substituted.

58. Amendment of the section 102, Act IV of 1938.—In section 102 of the said Act,—

(*i*) for the word "default", wherever it occurs except for the first time, the words "default or contravention" shall be substituted;

(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The provisions of sub-section (*1*) shall apply in respect of principal agents, chief agents and special agents as they apply in respect of an insurer."

59. Insertion of new section 110C in Act IV of 1938.—After section 110B of the said Act, the following section shall be inserted, namely:—

"110C. *Power to call for information.*-(*1*) The Controller-General may, by notice in writing, require any insurer to supply him with any information relating to his insurance business, and the insurer shall comply with such requirement within such period after receipt of the notice as may be specified therein.

(*2*) Any information supplied under this section shall be certified by a principal officer of the insurer and if the notice so requires also by an auditor."

60. Amendment of section 116, Act IV of 1938.—In sub-section (*1*) of section 116 of the said Act,—

(*i*) for the words "an Acceding State or other Indian State" the words "any country or State outside the Provinces of India" shall be substituted; and

(*ii*) the proviso shall be omitted.

61. Amendment of section 116A, Act IV of 1938.—To the proviso to section 116A of the said Act, after the words and figures "of section 28", the words figures, brackets, and letters "or section 28A, or the statements referred to in sub-section (*2*) of section 31B or section 40B" shall be added.

62. Amendment of section 118, Act IV of 1938.—In section 118 of the said Act, at the end of clause (*b*), the word "or" shall be inserted and after that clause, the following clause shall be added, namely:—

"(*c*) any approved superannuation fund as defined in clause (*a*) of section 58N of the Indian Income-tax Act, 1922 (XI of 1922)."

63. Amendment of the First Schedule, Act IV of 1938.—In the First Schedule to the said Act,—

(*i*) in Part I, in clause (*c*) of regulation 7, for the words "a certificate signed by" and the words "parts of the assets", the

words "where the balance sheet relates either wholly or in part to life insurance business, a certificate signed by" and the words "part of the assets" shall respectively be substituted;

(*ii*) in Form A, in the first column, for the item "Life Insurance Fund" the following shall be substituted, namely:—

"Life Insurance Fund—

(*i*) Business in India,

(*ii*) Business outside India".

64. Amendment of the Third Schedule, Act IV of 1938.—In the Third Schedule to the said Act,—

(*1*) in Part I, after regulation 7, the following regulation shall be inserted, namely:—

"7A. In addition to the revenue account, information shall also be supplied of the gross claims payable directly by the insurer in India (that is to say, the claims without taking into account claims on reinsurance ceded or accepted) separately for fire, marine and miscellaneous insurance business and the provisions of sections 20 and 116A shall not apply to any information so supplied."

(*2*) In Part II, in Form F,—

(*a*) in the first column, for the item "commission" the following items shall be substituted, namely:—

"Commission on direct business... .....

Commission on Reinsurances accepted."

(*b*) in the third column, before the item "Other Income (to be specified)", the following item shall be inserted, namely:—

"Commission on Reinsurances ceded....."

65. Insertion of new Schedule in Act IV of 1938.—In the said Act, the "Sixth Schedule" shall be re-numbered as the "Seventh Schedule" and before that Schedule as so re-numbered, the following Schedule shall be inserted, namely:—

"THE SIXTH SCHEDULE.

PART A.

[*See* section 42B (*1*)]

Terms deemed to be included in every contract between an insurer carrying on general insurance business and a principal agent.

1. All payments of commission to insurance agents shall be made by the principal agent on behalf of the insurer.

2. The principal agent shall procure or cause to be procured through insurance agents such an amount of general insurance business of any class for the procurement of which he has been appointed, as will yield a gross premium income of not less than twenty thousand rupees in each calendar year.

3. In the event of the principal agent failing in any calendar year to comply with the requirements of clause 2, he shall forfeit to the insurer—

(*i*) one-quarter of the total remuneration payable to him by the insurer for that year, if the class of business for the procurement of which he has been appointed is fire or miscellaneous insurance business, or

(*ii*) one-third of the total remuneration payable to him by the insurer for that year, if the class of business for the procurement of which he has been appointed is marine insurance business.

4. In the event of the principal agent failing to comply with the requirements of clause 2 in any two successive calendar years, the contract shall, without prejudice to the provisions of clause 3, terminate on the 31st day of March immediately following the second calendar year.

5. A principal agent shall not by himself procure any class of general insurance business without utilising the services of an insurance agent.

PART B.

[*See* section 42C (*1*).]

Terms deemed to be included in every contract between an insurer carrying on life insurance business and a chief agent.

1. All payments of commission to insurance agents shall be made by the insurer direct or by the chief agent, who may make the payment either directly or through a special agent on behalf of the insurer.

2. The chief agent shall employ or cause to be employed for and on behalf of the insurer either directly or through special agents at least twelve insurance agents in cases where the business in force of the insurer is less than one crore of rupees or in any other case at least twenty-four agents each of whom will procure in each calendar year new business amounting to not less than ten thousand rupees.

3. Save as provided in respect of cases specified in clause 7 of this Part, the remuneration payable to the chief agent in respect of life insurance business effected through him for the insurer shall only be in the form of an overriding commission.

4. In the event of the chief agent failing in any calendar year to comply with the requirements of clause 2, he shall forfeit to the insurer one-half of the total remuneration payable to him by the insurer for that year.

5. In the event of the chief agent failing to comply with the requirements of clause 2 in two successive calendar years, the contract shall, without prejudice to the provisions of clause 4, terminate on the 31st day of March immediately following the second calendar year.

6. Not more than one intermediary to be remunerated by the insurer concerned, whether on a salary basis or by way of commission shall be employed between the chief agent and the insurance agent, but the chief agent may employ as many persons as he thinks fit on a salary basis, provided such salaries are paid out of his overriding commission.

7. In cases where the commission payable on a policy of life insurance effected through an insurance agent working under a chief agent is stopped by the insurer and not paid to the insurance agent, an amount not exceeding one-quarter of such commission payable to the insurance agent concerned may also be payable to the chief agent, if he continues to render service in connection with that policy.

PART C.

[*See* section 42C (5).]

Terms deemed to be included in every contract between an insurer carrying on life insurance business and a special agent or between a chief agent and a special agent.

1. All payments of commission to insurance agents shall be made by the insurer direct or, on behalf of the insurer, either by the chief agent under whom the special agent is working or by the special agent.

2. The special agent shall employ at least four insurance agents in cases where the business in force of the insurer is less than one crore of rupees, or in any other case, at least eight insurance agents each of whom will procure in each calendar year new business amouting to not less than ten thousand rupees assured.

3. In the event of the special agent failing in any calendar year to comply with the requirements of clause 2, he shall forfeit to the insurer fifty per cent of the total remuneration payable to him by the insurer, or, as the case may be, by the chief agent, for that year.

4. In the event of the special agent failing to comply with the requirements of clause 2 in two successive calendar years, the contract shall, without prejudice to the provisions of clause 3 of this Part

terminate on the 31st day of March immediately following the second calendar year.

5. The remuneration payable to the special agent in respect of policies of life insurance effected through him shall only be in the form of an overriding commission.

Explanation.—In this Schedule "business in force" means the total sum assured with bonuses, without taking into account reinsurances, ceded or accepted, by an insurer in respect of the whole of the life insurance business on the last working day of the calendar year or the period covered by the revenue account furnished by such insurer under clause (*b*) of sub-section (*2*) of section 16, as the case may be, preceding the calendar year in question.

STATEMENT OF OBJECTS AND REASONS.

A Bill to amend the Insurance Act, 1931, was pending in the Constituent Assembly (Legislative) and it was with the permission of the House withdrawn in January 1948, in order to enable reconsideration of the provisions thereof in the light of the changed conditions arising out of the Partition and the changed constitutional position. That Bill contained provisions designed to implement the main recommendations made in 1945 by a Committee constituted under the Chairmanship of Sir Cowasjee Jehangir. That Committee, it may be recalled, went into the question of frequent changes in the management of Insurance Companies and other undesirable features in the administration of Insurance Companies. There were also, in the Bill, other provisions limiting the commission method of payment of remuneration and placing a limitation on the expenses of insurers, and was in the form in which the Select Committee of the old Legislative Assembly had altered it in March 1947.

2. The Government appointed an Informal Committee of persons knowledgeable in insurance matters to examine the provisions of the above Bill and also to review all the provisions of the Insurance Act with a view to suggesting suitable amendments having regard to the changed circumstances. The report of this Committee was further considered by the Insurance Advisory Committee and the present Bill aims to incorporate in the law provisions which Government, in the light of all this further examination, consider desirable.

3. This Bill incorporates the main provisions in the old Bill which aim at: (*i*) making it difficult for designing financiers to get control of insurance companies or to use insurance funds for speculative purposes, and (*ii*) preventing interlocking of interests between insurance companies and banks. In the matter of limitation of over-all expenses, however, present opinion is that it would be inadvisable to

follow the somewhat rigid lines of the provisions in the old Bill. Instead, it is proposed that a statutorily recognised association of insurers should be formed with two executive committees—one for the life business and the other for the general business—to determine annually the reasonable limits for expenses of insurers having regard to all the circumstances relevant thereto during the year and to recommend to Government action in respect of those that exceed the reasonable limit.

4. Provisions have also been included to strengthen Government's control over insurers by inspection of the insurers' books, whenever required, to liberalise the conditions of service of insurance agents and to enable the conversion by a less tedious procedure of proprietary joint stock insurance companies into 'mutual' companies. It is also proposed to institute a class of Approved Investments, and to refix the minimum proportions of the Indian Life Fund that should remain invested in Government securities, Approved Securities and Approved Investments.

5. Brief explanatory notes on the clauses of the Amending Bill are given in the annexed Notes on Clauses.

NEW DELHI;
The 7th November 1949.

K. C. NEOGY.

NOTES ON CLAUSES.

Clause 2 seeks to extend the Insurance Act to the States for which the Dominion Legislature can legislate on the subject of insurance.

Clause 3, among other matters, enlarges the scope of "approved securities" by including shares of any Corporation whose principal and dividend are guaranteed by the Central or a Provincial Government and, to the extent that such securities were held prior to partition, securities which have now become Pakistan Government securities and Karachi Port Trust securities:

brings the definitions of "auditor" and "Government security" up-to-date;

adds definitions of "banking company" "chief agent", "investment company", "principal agent", "private company" and "special agent"; and

defines the classes of fire, life, marine and miscellaneous insurance business.

Clause 4 changes the designation of the Superintendent of Insurance.

Clause 5 clarifies the rule of constructions in applying the Act to the Acceding States and provides for the appointment of the Controller-General of Insurance.

Clauses 6 and *47* provide that only a public company or a Co-operative society shall carry on insurance business. Power to grant exemption to cover cases such as superannuation funds is retained.

Clause 7 provides for cancellation of the registration of an insurer who carries on any business other than insurance or business incidental thereto and for reviving the cancellation under certain circumstances.

Clause 8 rectifies a small drafting defect.

Clause 9 provides that a life insurance company should have only ordinary shares with voting rights proportionate to the paid-up capital and should maintain a register showing the beneficial owners of its shares and further makes provision for altering the existing capital structure suitably with the sanction of the Central Government. It also provides for the conversion of a proprietary company into a mutual company through a scheme sanctioned by the Central Government.

Clause 10. Sub-clause (*i*) is merely consequential; sub-clause (*ii*) places United Kingdom insurers on a par with other non-Indian insurers in the matter of instalments towards deposits.

Clause 11 extends the time allowed for the submission of the statement of life assets and prescribes the manner of preparing such statement.

Clause 12 requires details as to the occupation and other directorships of the directors, managers and others to be furnished.

Clause 13 provides for an actuarial valuation every three yaars instead of every five years.

Clauses 14 and 15 are clarificatory.

Clause 16 reduces by 5 per cent the quantum of compulsory investments to be held in Government and approved securities, prescribes the proportions to be held in these and provides that investments shall be held free of any encumbrance. United Kingdom Government securities will also cease to be authorised investments for this purpose and time is allowed for the change over. Non-Indian insurers should hold their compulsory investments in India.

Clause 17 institutes a class of "Approved Investments" and places certain restrictions on the investment of life insurance fund and certain other funds of an insurer including restrictions on the amount that can be kept by an insurer in the shares of any one banking, investment or joint-stock company and on the amount that can be kept in deposit with any one banking company. It also provides for requiring an undesirable or unsuitable investment to be vacated.

Clause 18. Sub-clause (*i*) is formal. Sub-clause (*ii*) provides for the furnishing of periodical certificates to the effect that investments constituting the controlled funds are generally held free of any encumbrance.

Clause 19 provides for the reporting of changes in the investments constituting the life insurance fund and certain other funds quarterly to the Controller-General of Insurance.

Clause 20 places further restrictions on loans that may be granted by a life insurance company.

Clause 21 makes the management of an insurance company as distinct from the company itself liable for losses resulting from unapproved investments.

Clause 22 is clarificatory.

Clause 23 seeks to restrict commission method of remuneration to chief, principal, special and insurance agents, to prohibit nomination of a successor or assignment of office by a manager, managing director, or other officer and to check payment of excessive remuneration to insurance executives.

Clause 24 seeks to prohibit insurers and banks from having common officers and requires insurers of more than a certain size to have only whole-time officers.

Clause 25 authorises the Central Government to order investigation of the affairs of an insurer and after investigation to secure appropriate action being taken.

Clause 26, 27 and 28 provide for the Controller-General sanctioning schemes for the transfer and amalgamation of the business of insurers.

Clause 29 provides for the appointment of a guardian to receive policy-moneys on behalf of a minor nominee.

Clause 30 contains amendments consequential to the provisions in clause 31.

Clauses 31 and 45 provide for the control of over-all expenses of all insurers through the medium of a statutory association of insurers and two Councils operating through two Executive Committees with Government representation, one being for life and the other for general insurance. The General Insurance Council is also to regulate the tariff rates and conditions. Maximum rates of commission to insurance agents and special agents in life insurance business and to insurance agents and principal agents in general insurance business are prescribed.

Clause 32 provides for triennial licences instead of annual licences for insurance agents.

Clauses 33 and 65 provide for the licensing of principal, chief and special agents and the cancellation of such licences and also regulate the terms of employment, activities and contracts of principal, chief and special agents.

Clause 34 liberalises the conditions for compulsory continuance of payment of renewal commission to an insurance agent.

Clause 35 provide authority to call for information regarding matters specified in clauses 31 and 33.

Clause 36 omits the time-limit within policy-moneys can be paid into Court.

Clause 37 provides for referring disputes relating to claims on small life insurance policies to the Controller-General of insurance.

Clause 38 provides that a life insurance company should have at least two policy-holders' directors and disqualifies ex-employees for a period of five years from such directorships, with an exception in the case of the chief executive.

Clause 39 is formal.

Clause 40 prohibits Indian life insurance companies from having common directors except under certain limited circumstances.

Clause 41 limits the part of surplus allocated to the shareholders.

Clause 42 provides for the appointment of an administrator to manage the affiairs of an insurer under certain circumstances and for the Controller-General to take necessary action with regard to the future of the insurer, after getting a report from the Administrator.

Clause 43 is consequential.

Clause 44 provides for an annual certificate that section 64 is being complied with.

Clause 46 raises the upper limit for policies issued by provident societies from Rs. 900 to Rs. 1,000.

Clause 48 and *55* omit certain provisions thus placing provident societies on a par with insurers in this respect.

Clause 49 sub-clause (*1*) is consequential. Sub-clause (*2*) provides for cancellation of registration of a provident society, for non-payment of deposit, without going to Court.

Clauses 50 and *52* apply to provident societies certain provisions applicable to insurers.

Clause 51 provides for an extension of time for furnishing valuation returns and for a clarification.

Clause 53 clarifies the power of the liquidator of a provident society to sell its property.

Clause 54 authorises the exercise by the Controller-General of some discretion in appointing a liquidator or committee of inspection and prescribes a time-limit for liquidators' report.

Clause 56 makes a consequential change.

Clause 57 makes some formal changes.

Clause 58 (*i*) corrects a drafting flaw

(*ii*) makes principal, chief and special agents liable to be prosecuted for any contravention of the Act.

Clause 59 requires an insurer to supply any information relating to his business required by the Controller-General.

Clause 60 extends the scope—for granting exemptions where necessary from the provisions of the Act.

Clause 61 is consequential.

Clause 62 permits the grant of exemptions from the necessity of complying with the provisions of the Act to an approved superannuation fund.

Clauses 63 and *64* are formal and clarificatory.

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